



Complementary Report to the 5th and 6th Report on the Implementation of the UN CRC and its OP

Spain 2017



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- 1 **General measures of implementation**
María Pilar Sánchez Álvarez, Cáritas Española
- 2 **Definition of the child**
Conchi Ballesteros Vicente, Plataforma de Infancia
- 3 **General principles**
Conchi Ballesteros Vicente, Plataforma de Infancia
- 4 **Civil rights and freedoms**
Nora Mora Prato, Plataforma de Infancia
- 5 **Violence against children**
Catalina Perazzo Aragonese, Fundación Save the Children
- 6 **Family environment and alternative care**
Erenia Barrero Rodríguez, Aldeas Infantiles SOS España
María del Mar Líndez Líndez, Aldeas Infantiles SOS España
- 7 **Disability, basic health and welfare**
Carmen García Cuestas, Cáritas Española
- 8 **Education, leisure and cultural activities**
Conchi Ballesteros Vicente, Plataforma de Infancia
José Ramón García-Albertos Constán, Federación INJUCAM
- 9 **Special protection measures**
Antonio María Salinas Íñigo, Fundación Diagrama Intervención Psicosocial
- 10 **Follow-up of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography**
Tomás Aller Floreancig, Federación de Asociaciones para la Prevención del Maltrato Infantil (FAPMI-ECPAT España)
- 11 **Follow-up of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict**
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A

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Adolfo Lacuesta Antón
President
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Index

Presentation	08
Main recommendations	10
1. General measures of implementation	19
2. Definition of the child	31
3. General principles	37
4. Civil rights and freedoms	45
5. Violence against children	53
6. Family environment and alternative care	63
7. Disability, basic health and welfare	73
8. Education, leisure and cultural activities	91
9. Special protection measures	105
10. Follow-up of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	115
11. Follow-up of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	125
Glossary	130
Bibliography	132
Plataforma de Infancia	138

Presentation



The Plataforma de Infancia represents an alliance of organizations created in 1997 for the promotion, protection and defence of the rights of children, and operates within the framework of the Convention on the Rights of the Child (CRC), approved by the United Nations in 1989.

Through this Complementary Report, the network aims to continue and consolidate its work in the monitoring of the application of the Convention in Spain by working with other organizations, contributing in a specific way to the monitoring of this application by the Committee on the Rights of the Child in their next period of sessions, which are due between May and June 2017.

Its work is indicated in the origins of the coalition itself and its most immediate precedent is its own “Complementary Report to the 3rd and 4th Report on the Implementation of the Convention on the Rights of the Child in Spain”, published in 2010 and presented to the Committee that same year.

The working process used to produce this Report has had the following objectives, which were already stated in the aforementioned Complementary Report:

- Promotion of the rights-based approach proposed by the CRC.
- Reinforcement of networking.
- Influence on policies related to children.

This process was articulated through the constitution of a Working Group, which in turn was organized into eleven Subgroups, one for each part of the Convention dealt with in the document.

Organizations which are members of the Plataforma de Infancia have taken part in the production of this Report, as well as other organizations



that have been invited to participate through the National Council of NGOs for Social Action, along with others that participated in the 6th Meeting between the Plataforma de Infancia and the Ombudsmen’s Offices all around Spain, held in Madrid on the 27th of October 2016. We hope to have included the conclusions of this event in the text appropriately.

To help in the writing of the Report, at the beginning of the process eleven framework documents were produced, one for each subject area, in order to ensure an initial approach to this task from the rights-based approach established by the CRC. Therefore, the documents had the following contents: a specifically referenced articulation of the Convention; a reference to the related General Comments of the Committee on Rights of the Child; extract from the Concluding Observations made to Spain by the Committee on Rights of the Child in 2010; the statistical information that the Government must present in its periodical report; and, finally, the contents of the 5th and 6th Report on the Implementation of the CRC by the UN and its Optional Protocols presented by Spain.

After the first meetings, in which the process was presented and people and organizations were encouraged to participate, we moved on to a first stage of compiling the contributions made in technical files made for that purpose, starting necessarily with the working documents prepared as support for that work. The first drafts of each section were shared in the context of the 6th Meeting between the Plataforma de Infancia and the Ombudsmen's Offices, as mentioned previously.

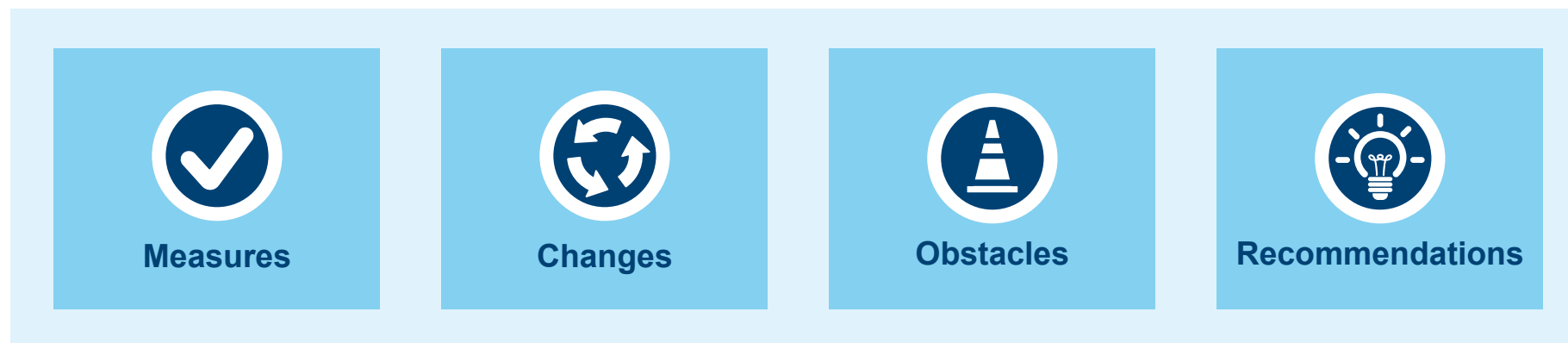
We then proceed to make new revisions of the text, in order to complete and improve it, and the new advanced drafts were validated on the 15th of December of 2016, in the last General Assembly of the Plataforma de Infancia -which is the sovereign organ of the organization-, and on the 7th of February 2017, in a meeting of its Management Board.

The contents included in each section of this Report follow the same guiding structure, and each section is identified with its corresponding

symbol:

- Measures adopted as a response to the last observations made by the Committee on the Rights of the Child.
- Changes both positive and negative that have taken place since the last report. New areas of concern.
- Obstacles found in the carrying out of obligations required by the CRC.
- Recommendations.

Finally, it is important to point out that the information provided in the text to support the monitoring work of the Committee on the Rights of the Child is very usefully completed with the Report which in parallel has been promoted by the coalition, based on the participative process followed with children and adolescents, to find out about their opinions and proposals on the application of the rights of children and adolescents in Spain.



Feminine and masculine

In the Spanish version of this report, with the goal of adapting the language so as to represent both men and women, the decision has been made to use terms that are both masculine and feminine alternately, or the use of a term that although may be masculine or feminine represents all persons. However, in the English translation we understand that the language is generally gender free. When institutions or documents are mentioned, their official name in English is used where applicable.



Main recommendations

1

General measures of implementation

- National strategy and action plans:
 - Improvement of the processes of communication and participation among the agents involved.
 - Harmonious implementation of the National Strategic Plan on Childhood and Adolescence, in terms of the measures, the involvement of Autonomous Communities and Cities and other Public Administrations and agents.
 - Stopping the current plurality of legislation, policies and budgets from negatively affecting implementation.
 - Immediate promotion of the Strategic Plan which could solve the deficiencies detected in the previous ones, particularly in reference to the creation of measures and the design of indicators, thus improving level of participation by children, institutions and associations in the creation of this plan, as well as its implementation, assessment and budgetary allocation.
- Allocation of resources:
 - Increase in the resources devoted to children in key areas, including the dissemination of the principles of the Convention, progressively bringing them closer to average EU spending on Social Protection and Education, while also advancing in the recovering of the funding that existed before the crisis of 2009.
 - Promotion of a political agreement on protection of the resources devoted to children in the context of the National Pact on Childhood.

- Reiteration of the recommendation made to Spain in 2010 by the Committee on the Rights of the Child, determining "(...) amount and the proportion of spending aimed at this on a national, regional and local level in order to assess the repercussions and effects on children".

- International Cooperation and ODA:

- Recovery of growth in ODA, advancing in the measurement of ODA aimed at childhood and ensuring that the 5th Master Plan gives priority to cooperation related to childhood.
- Human rights: review of the actions of the Office of Human Rights, giving it the necessary inter-ministerial nature, as well as drafting the 2nd Plan on Human Rights.
- Transforming the permanent commissions created both in the Spanish Congress and in the Senate from non-legislative ones to legislative ones.

2

Definition of the child

- A clear definition of the concept of "child", which is sometimes lacking in clarity and specificity in its range of use.
- To readopt Measure 6.2., already included in the 1st NSPCA (2006-2009), within its Strategic Objective 6, in order to revise the age at which the system confers legal responsibility on the actions committed by minors and to analyze if this is in line with the principles of the Convention on the Rights of the Child (CRC).
- To open up the debated suggested on minimum legal ages by promoting the drawing up of statistical and comparative reports that refer to the same question in other countries.

- To increase the minimum age for the use of firearms for hunting, while also establishing a system to gather data on accidents with firearms in which children or adolescents were involved.

3

General principles

- Non-discrimination:
 - Effective fulfillment of legislation on non-discrimination and equality.
 - Girls with disabilities and adolescents: guaranteeing their access to justice.
 - Gypsy children and adolescents: adoption of special measures in the cases of multiple discrimination suffered by gypsy girls, as well as educating, informing and raising awareness among gypsy children and adolescents both about their rights in general and their right to participate in particular.
- Greater interest and respect for the opinions of children:
 - Reduction of traumatic situations in administrative and judicial procedures (unnecessary interviews, interrupting routines, among others), adapting spaces appropriately (existence of “friendly rooms”).
 - Providing specialized training for professionals involved in these legal proceedings.
 - Existence of enough psycho-social teams.
- Child participation: increasing the participation of children and adolescents from all social backgrounds and groups, in all of the processes that affect them.
- Ensuring the creation of proper reports on the impact on children and adolescents in the full report that accompanies all legislative projects.

4

Civil rights and freedoms

Child participation

- Establishment of stable and real channels of child participation in the organs of local, regional and national administrations, which make it possible to transmit the proposals of children and adolescents in the design, monitoring and assessment of policies.
- Incorporation of knowledge about the rights of children in general and the right to participate in particular, in places where child participation can be effective and can encourage the promotion of the CRC and, consequently, the use of their rights by children and adolescents.
- Design of new and unified systems of action to promote child participation on the part of public administrations, which will allow us to see how this question works all over Spain.
- Incorporation in the above of the necessary methodologies and the firm will to apply them to reach a higher level of real participation beyond the legal context.

Media and ICT

- Development of a legal framework that would regulate the protection of children and adolescents in relation to the media and ICT, with a transversal approach which promotes the safe use of the Internet and social media on a national level.
- Creation of the National Audiovisual Media Council (CEMA in Spanish) as a stable organ for the monitoring and regularization of audiovisual contents, substituting the current system of self-regulation.

- Creation of a new simple system of citizen participation that allows people to make complaints about the lack of child protection in audiovisual contents and whose verdicts will be binding for Public Administrations.
- Rationalization of working schedules to enable a better work-life balance in order to assist the digital literacy process of children and adolescents in the company of their parents or legal guardians.
- Encouragement and promotion of the development of new digital contents with greater quality and variety as an indispensable requirement to broadcast any programmes to a large audience.



5

Violence against children

- Creation of an Integral Strategy to Combat Violence against children, which should be articulated around an Organic Law on Violence against Children, which would involve Administrations on different levels and which proposes measures of prevention, detection, intervention and restoration.
- Proper training for all of the (public and private) profiles that work with children and adolescents for prevention, detection and notification of violence, as well as for transmitting information about their rights.
- Central and regional governments must continue to provide support and promotion for the 116111 “Child Helpline” and other complementary helplines such as the European 116000 for missing children and adolescents.
- Gender violence: it is essential to conduct psycho-social work with children and adolescents exposed to this violence, increasing the specialized resources for minors who are victims, as well as those devoted to tackling female genital mutilation through protocols, training, community work, registering, identification and monitoring of girls at risk, along with the reinforcement of coordination.
- LGTB: inclusion in the Unified Register of Child Mistreatment of the index “In questions of reporting of the violation of rights: Notifications of child mistreatment on grounds of sexual orientation and gender”.

6

Family environment and alternative care

- Specific guarantee of fairness in the resources and support systems that public administrations must offer to foster families in all Autonomous Communities and for all types of family placements.
- Improvement of the current Basic Statistics on Child Protection of the Ministry of Health, Social Services and Equality, so that it really has a unified database of protection measures and risk declarations, and it includes a portfolio of services and support offered by each Autonomous Community.
- Validating the protocols for action about protection measures and risk declarations for all autonomous communities, creating a specific protocol to assess the suitability of a family foster placement.
- Regulatory development of Organic Law 8/2015, of 22 July, on the modification of the system of protection of childhood and adolescence, to ensure a homogeneous application that avoids differences of interpretative criteria between Autonomous Communities.
- Creation of therapeutic teams specialized in the diagnosis and treatment of the effects of the deprivation of affection and child mistreatment in the sphere of protection and adoption.
- Repeal of Article 172. 5.c) of the Civil Code and speeding up the process of granting Spanish nationality for protected children and adolescents, regardless of the measure adopted.

7

Disability, basic health and welfare

Disability

- The protection and specific attention to children with disabilities and adolescents and their needs must be constantly present in all actions, measures and policies that are adopted in relation to childhood: the principle of non-discrimination on ground of disability must be transversal in order to change attitudes.
- Elimination of pharmaceutical copayment of the medication for children with disabilities and adolescents who are “beneficiaries” on the health documents of one of their parents.
- Ensuring the right to live in accessible physical and technological environments, especially including the adaptation of play areas and other facilities, supporting the integration and visibility of these children and adolescents.
- Prevention is the best approach: reviewing and greater effectiveness in early care services. Early care must be dealt with from a global perspective, respecting diversity, and coordinating all the determining aspects in the lives of children and adolescents, especially in terms of healthcare, education and social issues, and focusing on the family and children, who are at the heart of this question.
- Setting up of preventive and early intervention strategies aimed specifically at the sphere of violence and sexual abuse of children with disabilities and adolescents. These strategies must offer specialized training for all of the professional profiles involved and adapting assessment protocols, measuring instruments, and forensic-medical interviews, among other measures.

Basic health

- Guaranteeing a public and universal health system with free access for everybody who lives in the country, regardless of their administrative and tax contribution status, repealing Royal Decree Law 16/2012, of 20 April, on urgent measures to guarantee the sustainability of the National Health System, and improve the quality and safety of its services, as well as eliminating pharmaceutical copayment.
- Establishment in hospitals, health services and, in particular, maternity wards, of the Initiative for the Humanization of Birth Assistance and Breastfeeding.
- Establishment of a protocol for the diagnosis and treatment of ADHD, limiting the use of pharmaceuticals and including psycho-educational attention.
- Creation of universal programmes of positive parenthood, which promote healthy lifestyles and upbringing of children through informational and awareness campaigns -including those related to proper diets- and, at the same time, monitoring of advertising. School curricular projects must also include preventive interventions about all types of addictions and emotional and sexual health.
- Reinforcement of the prevention of HIV/AIDS among the most vulnerable groups, decreasing the incidence of infection due to this cause and other STDs.
- Promotion of the development of the specialty of Child and Adolescent Psychiatry, training professionals in the field of mental health who will look after children and adolescents integrated in multidisciplinary teams equipped with sufficient human and material resources.
- Promotion of universal and stable vaccination programmes, regardless of the Autonomous Community in which children and adolescents live.

Welfare

- Ensuring the existence of an information system that allows for good knowledge which will lead to the designing of coherent political action that will plan services and assistance in an integrated and coordinated manner, without an obsession with short-term results.
- Prioritization of the particular vulnerability of families with children by using preferential and urgent attention through social remuneration policies that focus on children and families, dealing with factors that may transmit poverty and social exclusion, all of which must be specially funded from the budgets of different public administrations.
- Establishment of a system that would guarantee minimum income on a national level as an effective measure to fight against poverty in general and, particularly, against severe poverty.
- Promotion of policies based on a system of universal benefits aimed at families and children, which would include measures such as a universal benefit for each dependent child, revising and improving all of the benefits, and defending inclusive and accessible public services. The specific benefits should help to compensate for extreme inequalities and situations which are not foreseen by the aforementioned universal benefits, guaranteeing this as a measure to fight against the inter-generational transmission of poverty.
- Design of a process of social inclusion through the involvement of parents, with effective support for a work-life balance in which participation in the labour market does not mean any economic penalization in terms of the financial help that families receive.
- Regarding housing policy:
 - Promotion of legislative reforms, based on a national pact and with specific plans that consider the social function of housing.
 - Actions in the field of public housing and/or renovation of neighbourhoods (particularly substandard housing), must include investment in the city and the spaces that already exist, as well as promotion of use of public and alternative transport.

- Eradication of shanty towns.
- Recognition of the social and family circumstances of the people affected by evictions as a question that must always be considered in legal proceedings.
- Incorporation in the annual reports of public institutions, particularly the General Council of Judicial Power, of data and assessments on the impact of the evictions of families in the presence of children and adolescents.

8

Education, leisure and cultural activities

- Signing of a National Pact on Educational Fairness that would breach the current educational gap, so that the system offers the right conditions to achieve equal opportunities.
- Truly free education and defence of Obligatory Education from 6 to 16 years of age:
 - Passing of a Law on the Funding of Education.
 - Progressive increase in public spending on Education until it reaches the OECD average and at least 7% of GDP, in a maximum period of one legislature, then protection of this spending of Law to avoid future constraints on spending.
 - Increase in public spending on scholarships and study grants from the current 0.11% of GDP to 0.4% of GDP in 2020, increasing its progressive nature.
- Early childhood:
 - 0-3 years of age: Creation of an access plan for public Nursery Education, increasing schooling rates from 0 to 3 years of age until we reach a minimum of 33%, in all Autonomous

Communities in 2020, and guaranteeing access to the most disadvantaged members of the population.

- 3-6 years of age: promotion of a system of guaranteed grants for vulnerable groups.
- Inclusive attention to student diversity, in which the system adapts its structures to children and adolescents, not the other way around. In the case of children with disabilities and adolescents, we propose: guaranteeing an inclusive model, eliminating any form of segregated or special schooling; planned conversion of special education schools into inclusive ones; respecting reasonable adjustments; assessment of schools to ensure that they are accessible; recognition of schooling as part of the right to an inclusive education; regulations that guarantee the right to extracurricular activities.
- Prevention of violence in schools: implementation of programmes and positions related to school mediation.
- Introduction of changes in the pedagogical model:
 - Review of the amount of homework set in order to preserve time for play and rest.
 - Monitoring the same curriculum in obligatory schooling, postponing differentiated itineraries until post-obligatory stages.
 - Elimination on the practice of repeating a school year and final certification exams called 'reválidas'.

Article 31: The right to rest, leisure, play, recreational activities, cultural life and the arts

- Recognition of non-school spaces as educational ones.
- Particular improvement of the access to extracurricular activities for children living in poverty and exclusion, trying to make them free for all children and adolescents.
- Creation of accessible and adapted spaces for all children and adolescents.

- Taking into account children's right to play in terms of urban planning.
- Ensuring the cultural rights of children and adolescents from minority groups, particularly strengthening the work done with gypsy boys and, above all, gypsy girls, to try to integrate them as much as possible, working in an integrated and integrating way with all children and adolescents.

9

Special protection measures

Children and adolescents who are refugees or asylum seekers, children and adolescents who are not accompanied and children and adolescents who are victims of sexual abuse, exploitation or human trafficking

- The Government and Public Administrations must make a real change in the conception of UFM and children and adolescents who are refugees, asylum seekers and victims of exploitation and human trafficking, considering them, above all, to be entitled to the rights and guarantees recognized by the CRC, in its Optional Protocols (OP) and in other treaties. This must mean prioritizing the intervention of the competent authorities in the protection of children and adolescents rather than the intervention of the competent authorities in security and home affairs.
- One way of facilitating this change and producing an overall improvement would be passing an integrated Organic Law on violence against children and adolescents.
- Notwithstanding these changes in concepts and legislation, the best way to guarantee a better application of the existing regulations is to improve the dissemination and knowledge of these precepts, along with proper training for all of the professionals involved.

Administration of juvenile justice

- Modification of the development regulation of Organic Law 5/2000 in order to improve certain deficiencies that have been shown in practice and adapt it to the Law after the important reform made by Organic Law 8/2006.
- Promotion in rural areas of the signing of more agreements with local organizations to implement measures that not involve imprisonment.
- Encouragement of studies about the new types of crimes mentioned (violence by children against their parents, gender violence among adolescents and crimes committed using technology), in order to improve prevention and intervention programmes and provide special training for the different professionals who work in this field.
- Devoting more resources to the implementation of therapeutic confinement, particularly in cases of mental illness.



10

Follow-up of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

- Urgent development of a new national Plan of Action to fight CSECA which would include for measures for coordination all over the country, homogenization of the response by all of the agents involved and adaptation of the measures to the real situation of each region.
- Thorough research into the contents of the present Protocol both on a national and regional level.
- More effort and a clear commitment to increasing social awareness about CSECA.
- Establishment of specific plans and protocols for actions to help victims under 18 years of age which would be differentiated from the actions aimed at helping those over this age.
- Increasing the visibility of vulnerable specific groups at risk from CSECA such as minors with intellectual and/or developmental disabilities or migrant children.
- Promotion of the involvement of businesses and the private sector through the signing of codes of conduct and the development of childhood policies.
- Implementation of preventive activities with children and adolescents, using a positive and sensitive approach so as to avoid further situations of victimization.

- Progress in the implementation of the measures included in the Lanzarote Convention in relation to sexual violence against children and adolescents.

11


Follow-up of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

- Modification of Article 112 of the Royal Ordinances of the Armed Forces, in order to include the protection offered by the Optional Protocol.
- Modification of Organic Law 4/2015, of 30 March, to put a stop to the summary deportations which impede the identification of those who may be children and adolescents and victims of recruitment or conscription to participate in armed conflicts.
- Ensuring this identification of children and adolescents and of potential victims of recruitment, providing them with proper protection and psycho-social support, which includes training programmes in childhood rights and protection for all staff who may come into with minors and potential victims.
- Inclusion in the legislation on the transfer of weapons a specific prohibition in relation to the sale of weapons when their final destination is a country in which children are or may be recruited or used in hostilities.



1

General measures of implementation



Measures adopted as a response to the last observations made by the Committee on the Rights of the Child (2010)

Regarding the insufficient improvements pointed out by the Committee in its previous remarks, the following questions can be highlighted:

Legislation

Passing and coming into force of the following regulation:

- Organic Law 8/2015 of 22 July, on the modification of the system of protection of childhood and adolescence, and Law 26/2015, of 28 July, on the modification of the system of protection of childhood and adolescence.
- Organic Law 1/2015, of 30 March, which modifies Organic Law 10/1995, of 23 November, on the Penal Code, in relation to the raising of the age of sexual consent from 13 to 16 years of age (modifying Articles 183 and 183a, and adding to new ones: 183 ter and 183 quater).

National strategy and action plans

- Approval of the 2nd National Strategic Plan on Childhood and Adolescence 2013-2016 (2nd NSPCA), with a high level of institutional and social participation, including taking into account the proposals and demands made by children and adolescents through child participation processes.
- Approval of other sectorial plans that have an impact on childhood, such as the National Action Plan for Social Inclusion 2013-2016, the Integrated Plan for Family Support 2015-2017 and the National Strategy for the Social Inclusion of the Gypsy Population in Spain 2012-2020.

- Simultaneous development of different plans on a local and regional level.

Coordination

- Reinforcement of the National Childhood Observatory through the creation inside this institution of a commission to promote collaboration between the Childhood Observatory and local and regional ones.

Data collection

- Efforts made in collecting data related to childhood, particularly through the creation of the project “Childhood in data”, designed by the Ministry of Health, Social Services and Equality in collaboration with the Spanish Committee of UNICEF, thus responding (at least partially) to the requirements of the Committee in terms of the need to have homogeneous and disaggregated data, that allow us to know about the situation of children and, above all, homogenize data collection on a regional level.

Allocation of resources

- Existence of estimated figures for the main social plans, which in some cases reflect recent increases in some allocations, as well as tax reductions for homes with children and adolescents and subsidies for the Tertiary Sector.

Dissemination

- Maintenance of activities aimed at this question, sometimes through collaborations between public administrations and NGOs, networks and platforms, and those collaborations promoted by different independent national institutions working in the field of Human Rights.



Changes both positive and negative that have taken place since the last report

Coordination



- The reform of the aforementioned Legislation on protection specifically adds Article 22, on the impact of regulations in childhood and adolescence, in Law 26/2015, 28 July, indicating that “the reports on the regulatory impact that must accompany Draft Bills and projected regulations will include the impact of these regulations on childhood and adolescence”.
- Creation of Permanent Commissions (although not legislative ones) both in the Spanish Congress (where it is called the “Commission on the Rights of Childhood and Adolescence”) and in the Senate (“Rights of the Family, Childhood and Adolescence”).

Independent National Institutions in the field of Human Rights

- Maintenance of the recognition of the work carried out by these institutions, continuing with the growing awareness of the need to deal with questions related to childhood and with the collaboration that already exists between these institutions and civil society.



Spain still has a low level of investment in childhood compared to other countries in the same part of the world with a similar economy

International Cooperation and Official Development Assistance (ODA)



- The 4th Master Plan for Spanish Cooperation 2013-2016 places children among the collectives that must receive preferential assistance, having passed the “Strategy on Childhood of Spanish Cooperation” (2014), maintaining childhood as a multisectorial priority established in the previous Master Plan.

Legislation



- There is no integrated law aimed at stopping violence against children and adolescents.

Allocation of resources

- The State admits that in the period mentioned it prioritized policies and objectives aimed at budgetary stability, which led to significant reductions in some resources. An analysis of spending in some Autonomous Regions reflects this fact, along with the estimation of the evolution of public spending included in the report entitled “Childhood in budgets” (2015), published by the Spanish UNICEF Committee.
- Spain still has a low level of investment in childhood compared to other countries in the same part of the world with a similar economy. The evidence of high rates of child poverty, a problem which has increased



during the crisis (whereas relative poverty among people over 65 has decreased rapidly), is a sign of the weakness which already existed before the economic crisis, but which has become much more evident since this crisis started. The resources allocated by Public Administrations to policies related to childhood have been drastically reduced during the period analyzed, with a very slight recovery since 2014. Given the lack of consolidated official data, some examples in different sectors are: according to the European Union Statistical Office (Eurostat), in 2013 public spending on education in Spain (including university education) represented 4.19% of gross domestic product (GDP), compared to an average of 5.34% in the European Union (EU); according to the same source, in 2014 spending on social protection assistance for families and minors made up 1.3% of GDP, compared to 2.4% in the rest of the EU.

- It is worrying to see how, in most cases, this reduction has taken place in particularly sensitive budgetary allocations for the most vulnerable children or in plans aimed at compensating for inequality, such as grants, teaching staff and support programmes, and spending on social services and assistance. According to the functional classification of spending by Public Administrations (National Accountancy. Functional classification of spending in the subsector of Local Administration, Finance Ministry), between 2009 and 2014, spending on Nursery, Primary and Secondary Education was reduced annually by 5,045 million euros (some 13.5%) and spending on social protection aimed at families and minors by all public administrations dropped from 8,832 million euros to 6,140 million euros (a reduction of 2,692 million euros, or 30%). In both cases, there were notable differences in the reduction in spending between the different autonomous communities of Spain, which are responsible for a large proportion of social and educational spending. According to this source, both

types of spending, as well as being notably reduced, also lost importance in the overall non-financial expenditure of Public Administrations, which means that not only have these resources not been protected as requested by the Committee in 2010, but they have been subject to special cuts in a very difficult period for children and adolescents and their families.

- Furthermore, instability and outsourcing of services have both increased.

International Cooperation and ODA

- Dismantling of policies for cooperation and development, which went from 0.43% of gross national income (GNI) in 2010 to 0.13% in 2015. The State recognizes these cuts in funds, but justifies them due to the economic crisis, which is unacceptable taking into account the fact that a 70% reduction has been imposed.

Human Rights

- Although the current Human Rights Office of the Ministry of Foreign Affairs and Cooperation defines itself as the organ of the Directorate General of the United Nations and Human Rights at that Ministry, and is therefore responsible for the coordination of Spanish foreign policy in the field of the protection and promotion of human rights and the creation, proposal and application of that policy in international institutions, in practice it lacks the inter-ministerial nature necessary to function properly. Moreover, no 2nd Human Rights Plan has been published, a document which should have a transversal nature, and therefore there is currently no objective instrument that allows us to monitor the Government's activities in the field of human rights, nor is the Government obliged to submit annual accounts to civil society and the international community.



Dissemination

- The report points out that NGOs are key agents for action and intervention, but that responsibility and prevention regarding the Convention on the Rights of the Child (CRC) correspond to Public Administrations, which should be more active in this respect. Furthermore, we are still detecting deficiencies in the training of different professionals who work with children.



New areas of concern

Coordination

- The passing of Law 27/2013, of 27 December, on the rationalization and sustainability of Local Administration, has had a direct impact on the provision of different services on a local level that directly reach children and adolescents, but it has not been analyzed in the 5th and 6th Report on the Implementation of the UN CRC and its OP.

Allocation of resources

- The fulfilment of the objectives of budgetary stability and financial sustainability set by the EU and other national and international financial mechanisms have had a notably negative impact on allocations that were already weakened in terms of childhood policies, and these have been made subject to budgetary availability and the fulfilment of these objectives.
- The “Comparative Analysis of the General State Budget (GSB) 2015-2016 from the perspective of children’s rights” (Iciar Bosch Mogín, 2015; published by Plataforma de Infancia) shed light on some important issues, such as:

Limitations of the methodology used: the difficulty of identifying spending on childhood, for some of the following reasons:

1. In the General State Budget (GSB), it is



possible to identify spending policies by programmes, institutions responsible and the type of spending; nevertheless, the budget does not allow us to classify spending in term of the recipients. Thus, the identification of spending on childhood is tedious and confusing, and there is a risk of overestimating some spending policies and underestimating others.

2. Spending on childhood in the GSB is not equivalent to investment in childhood by the State: both Autonomous Communities and Local Councils have total financial autonomy to set and approve their own budget. Therefore, in Spain, in addition to the State Budget there are also budgets from regional and local administrations that are not in the hands of central government. Furthermore, we must bear in mind that the most significant policies on childhood are not dependent on central government and, therefore, in order to assess investment in childhood, we must also analyze budgets from Autonomous Communities and Local Councils.

In conclusion, we can highlight the following considerations:

1. Socio-economic indicators: it is noteworthy that the GSB presents indicators of a macroeconomic nature, but not socio-economic indicators that would allow us to identify the needs and demands of society (and, therefore, of children), such as indicators of inequality, poverty, social exclusion and deprivation.

It is noteworthy that the GSB presents indicators of a macroeconomic nature, but not socio-economic indicators that would allow us to identify the needs and demands of society



2. Refugees: in the context of the programme “Actions in favour of immigrants”, carried out by the Ministry of Employment and Social Security, the 2016 GSB includes some 53 M€ of funds for the reception of refugees. This figure was increased at the stage of parliamentary debate, and increased by 200 million euros (...). We are concerned by the fact that in spending policies on education there is no allocation to guarantee the schooling of these immigrants.



3. Assessment of the impact on the rights of children: the analysis of the SGB must not be limited to the moment in which the draft of the Law was approved and should also monitor its implementation and the extension of credit during the financial year. Moreover, it is necessary, both during and at the end of the financial year, to carry out an assessment of the impact of the SGB on the rights of children.
4. Transparency and accountability: being accountable for respecting the rights of children must not be limited to presenting reports to the Committee on the Rights of the Child. The assessment of the impact of the SGB on the rights of children is an annual opportunity for the Government to inform about steps forward and obstacles in terms of defending the interests of children.

International Cooperation and ODA

- Although the approval of the “Strategy on Childhood of Spanish Cooperation” (2014) is an important initiative, it happened very late (in October 2015, which means it would be in force for little more than a year) and in a context of budgetary reduction which is incompatible with a correct implementation.
- State contributions to the Office of the United Nations High Commissioner for Human Rights (OHCHR), which increased between 2007 and 2009, decreased from 2010 to 2014, when did not contribute anything to OHCHR.
- In a partial revision of the Country Partnership Frameworks of Spain with the countries that have been prioritized, we can

see that there are some observations made about childhood (in context, results and indicators), but no special attention to the countries with which Spain cooperates nor to the Optional Protocols of the CRC or to the recommendations that in the shape of “Concluding Remarks” are made by the Committee on the Rights of the Child to the Countries that are part of the Convention and its Optional Protocols.

- Existence of great differences between Autonomous Communities: whereas some of them have maintained an acceptable level of ODA, such as Andalusia or the Basque Country, others such as Murcia or Madrid have stopped cooperating.

Assessment of the activities of private companies

- The growing intervention of private companies and providers of services aimed at children, especially in sectors such as information and communication technologies (ICT), food (catering services, school canteens, production of cakes and sugary drinks) and the pharmaceutical sector, reflects a growing search for profits and a competitive trend which is detrimental to the health and welfare of children and adolescents. This goes hand in hand with the often misleading use of children and adolescents in advertising, which promotes inappropriate diets for the nutritional needs of children and helps to illnesses become chronic due to the interests of pharmaceutical companies. The latest updating of the Code of Co-Regulation on the advertising of food and drinks aimed at minors, prevention of obesity and health, made in 2013, maintained a document with very diverse limitations.



Obstacles found in the carrying out of obligations required by the CRC

Legislation

- The real application of the general principles of the CRC, particularly those which refer to the general interests of children and their right to participate, is still undergoing some difficulties, despite being legally recognized.
- Legislation related to childhood is widely dispersed rather than concentrated.

National strategy and action plans

- 2nd NSPCA:
The assessment made by the Plataforma de Infancia of this plan since its passing provides the following information:

From the one-year extension of the previous NSPCA, which initially covered the period 2006-2009, until the approval of the second one in 2013, there was a period of 2 years without a specific plan.

Institutions: lack of clarity on what is understood by “competent institution” and “collaborating institution”, which means a certain vagueness which jeopardizes the effective application of measures, hinders monitoring and assessment, and casts doubts on budgetary estimation.

Indicators: they do not have a baseline or targets. Therefore, all the recommendations made to Spain in this respect by the Committee on the Rights of in 2010 were not carried out.



Resources: the 2nd NSPCA had a budgetary estimation of 5,159 M€. Nevertheless, this estimation faces the difficulty of quantifying its cost during implementation, given the measures considered. Moreover, the budget allocated is based on an overall calculation for all the effective period, without breaking down the quantities by years or by the amount to be contributed by the rest of the institutions included in the Plan to carry out the measures. Finally, this section concludes with the statement that “The implementation of the measures will be carried out and paid for from the budgets of the different public administrations responsible for this implementation, and this will always be subject to the fulfilment of the objectives of budgetary stability and financial sustainability. Therefore, its development is conditioned by budgetary availability and the fulfilment of said objectives”. That is to say, the Plan itself recognizes before its implementation that its impact may be reduced, given the absence of a budgetary commitment to applying it properly.

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Monitoring and assessment: the plan includes a Monitoring Commission, which will carry out an intermediate and final assessment on the fulfilment of the 2nd NSPCA.

Contributions made to the Intermediate Assessment included, among others:

1. Although the Plan is considered to be a tool for policy coordination, a low percentage of Autonomous Communities took part and sent information.
2. The measurement dealt more with processes rather than results and impact.
3. For this Intermediate Assessment, no childhood or teenage consultation was made.
4. In relation to the “Economic resources applied”, other concepts were used to refer to this question, such as “Budgetary estimation” and “Economic information/spending provided by institutions”, which caused some confusion.
5. In January 2017, there was still no news of the Final Assessment.

In January 2017, there was also no news of the existence of a new NSPCA.

- There is still no proper coordination between the NSPCA, other sectorial plans with an impact on childhood, and regional and local plans.

Coordination

- Lack of coordination between administrations: central, regional and local. All of them are responsible for this lack of coordination.
- Childhood Observatory: this still does not have enough resources or clear functions to be able to promote effective coordination in terms of the rights of children on a national level or to coordinate with regional observatories.

Data collection

- Although the creation of the tool “Childhood in data” means a clear step forward, there are still some notable deficiencies. The indicators available for many spheres are insufficient and, sometimes, those that do exist are still only partial and are not homogeneous and, therefore, they are not comparable.

Allocation of resources

- Lack of assessment of the impact on the rights of children and adolescents of the aforementioned budgetary and public spending reductions.

International Cooperation and ODA

- General cuts: the State Report indicates that in 2015 ODA started to recover, but the data show that both in absolute and in relative terms (percentage of GNI), there was no variation from 2014 to 2015. In the same way, there is no basis for the affirmation that “the part of ODA devoted to children, which is considered a priority, has recovered social investment in absolute terms” (at the time of concluding this Complementary Report, there were no disaggregated data for ODA in 2015, only general figures, and therefore it is not possible to refute this affirmation).

- Greater cuts in ODA aimed at children: as there is no specific marker and as the Creditor Reporting System sectors (which define a characteristic or concrete sector) are very partial, they are of no use to estimate the total aid provided by Spanish Cooperation, but its analysis does help to give us an idea of the disinvestment in childhood. In 2010, the sum total of ODA aimed at Nursery, Primary and Secondary Education, children's health and child soldiers was 134.18 M€. In 2014, the last year for which there are disaggregated data, ODA in these sectors was 11.36 million euros, a decrease of 92%.
- Humanitarian Aid: this is the field which has suffered the most brutal treatment, with cuts near to 90%. This is particularly serious taking into account the numerous humanitarian emergencies that have occurred over the last few years such as the refugee crisis in Syria, the continuing droughts in the Sahel region and the outbreak of Ebola in Western Africa. In situations of conflict and emergency, children are especially vulnerable, they have many problems accessing education, they have problems with nutrition and water supply and they are much more in danger in falling into human trafficking networks.

Independent national institutions working in the field of human rights

- Despite all their efforts to promote children's right to participate and to try to get closer to children, some of them point out that they do not receive complaints directly from minors and, those that do, recognize that this is only in a minority of cases.



Humanitarian Aid: this is the field which has suffered the most brutal treatment, with cuts near to





Recommendations

National Strategy and Action Plans

- Improvement of the processes of communication and participation among the agents involved.
- Harmonious implementation of the Plan, both in terms of the measures and the involvement of Autonomous Communities and Cities, and other public administrations and agents.
- Stopping the current plurality of legislation, policies and budgets from negatively affecting implementation.
- Immediate promotion of the Strategic Plan which could solve the deficiencies detected in the previous ones, particularly in reference to the creation of measures and the design of indicators, thus improving level of participation by children, institutions and associations in the creation of this plan, as well as its implementation, assessment and budgetary allocation.

Allocation of resources

- Increase in the resources devoted to children in key areas, including the dissemination of the principles of the Convention, progressively bringing them closer to average EU spending on Social Protection and Education, while also advancing in the recovering of the funding that existed before the crisis of 2009.
- Promotion of a political agreement on protection of the resources devoted to children in the context of the National Pact on Childhood.
- Reiteration of the recommendation made to Spain in 2010 by the Committee on the Rights of the Child, determining "(...) amount and the proportion of spending aimed at this on a national, regional

and local level in order to assess the repercussions and effects on children".

International Cooperation and ODA

- Recovery of growth in ODA, advancing in the measurement of ODA aimed at childhood and ensuring that the 5th Master Plan gives priority to cooperation related to childhood.

Independent national institutions working in the field of human rights

- Reinforcement of the recognition of their work and collaboration with civil society, aiming for increasing and coordinated attention to the rights of children and adolescents, and improving children's level of participation.

Human rights

- Review of the actions of the Office of Human Rights, giving it the necessary inter-ministerial nature, as well as drafting the 2nd Plan on Human Rights.

Permanent commissions

- Transforming the permanent commissions created both in the Spanish Congress and in the Senate from non-legislative ones to legislative ones.

Business sector

- Promotion of measures to review the legal framework and the actions of private companies, such that these actions are specified and delimited from the perspective of children's rights, while also establishing charges for these companies in the provision of goods and services aimed at children.



2

Definition of the child



Measures adopted as a response to the last observations made by the Committee on the Rights of the Child (2010)

- Passing of Law 15/2015, of 2 July, on Voluntary Jurisdiction, which raises the minimum age for marriage from 14 to 16 years of age, following a recommendation from the Concluding Remarks made by the Committee on the Rights of the Child to Spain, in 2010 (CRC/C/ESP/CO/3-4).
- Passing of Organic Law 1/2015, of 30 March, which modifies Organic Law 10/1995, of 23 November, of the Penal Code (PC), which raises the minimum age of sexual consent from 13 to 16 years of age, following a recommendation from the Concluding Remarks made to Spain by the Committee on the Rights of the Child, in 2007, on the Optional Protocol related to the sale of children, child prostitution and the use of children in pornography (OP VPP, CRC/C/OPSC/ESP/CO/1).



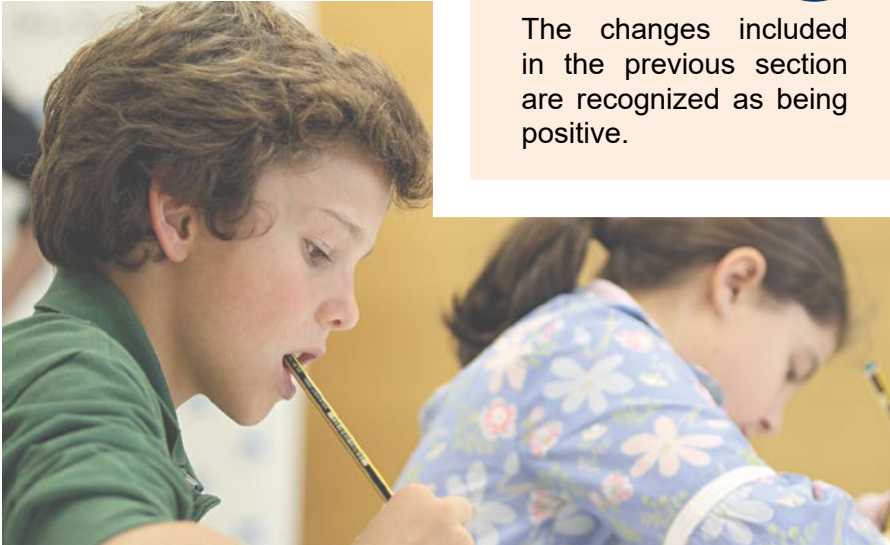
Both modifications were incorporated in the 2nd National Strategic Plan on Childhood and Adolescence 2013-2016 (2nd NSPCA), within Objective 2 on “Support for families”, Measure 2.9. “Revising of minimum ages” (2.9.1.).



Changes both positive and negative that have taken place since the last report



The changes included in the previous section are recognized as being positive.



New areas of concern

- Lack of definition on some occasions of the concept of “children”.
- The lack of definition pointed out can be observed, for example, in the field of healthcare, which in some cases has led to the need to use the Circular 1/2012, of the Prosecutor General’s Office, on the substantive and



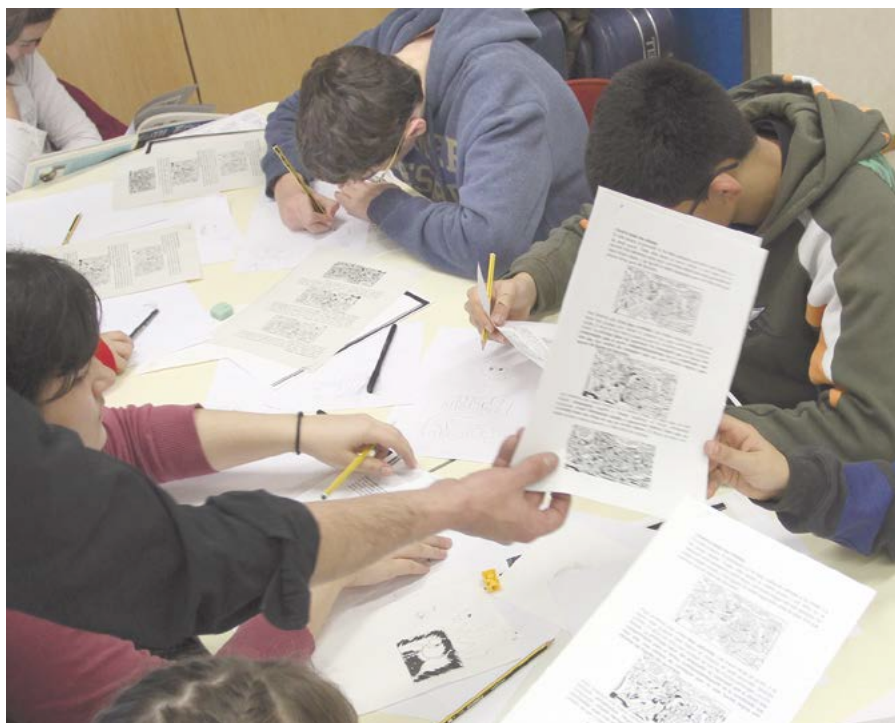
procedural treatment of conflicts about blood transfusions and other medical interventions on minors in cases of extreme risk, when there is a conflict of interests between parents and children, when it is necessary to carry out serious and risky health interventions on minors.

- Also in the field of healthcare, Organic Law 11/2015, of 21 September, to reinforce the protection of minors and women with a legally modified status in the case of abortions, means a setback in the right to choose of 16-year-old young women in relation to their lives and their bodies, given that they need parental consent to have an abortion; at this age, a teenage girl can get married or have consensual sex, but not vote or have the last word about her pregnancy.
- The minimum age for the use of Category 3.2. firearms to hunt in Spain is 14 years of age, as long as people of this age are legally in possession of a special authorization for the use of firearms and are accompanied by people over the age of 18 who have a firearms licence (Article 109 of Royal Decree (RD) 137/1993, of 29 January, which arrives the Firearms Regulation).
- Some debates have started to take place at a parliamentary level (although they have not yet been supported by majorities) about the possibility of lowering the minimum voting age from the current 18 years of age to 16, as is the case with very diverse limitations in some Ländern of Germany, in Argentina, Austria, Brazil, Hungary, Ecuador, Slovenia, Norway and the Swiss canton of Glaris.



Obstacles found in the carrying out of obligations required by the CRC

According to data from the World Health Organization (WHO), Spain heads the list of EU countries in terms of the number of deaths caused by accidents with firearms



- The criteria used by the aforementioned Circular have been criticized by some legal experts. It is considered to be necessary to abandon the paternalistic vision of Medicine, which also exist in relation to adult patients, but which is notably present in some doctors' dealings with children.
- According to data from the World Health Organization (WHO), Spain heads the list of European Union (EU) countries in terms of the number of deaths caused by accidents with firearms. Nevertheless, there are very few facts and figures available that gather information about the number of adolescents who use firearms and the number of the accidents in which they may have been involved.
- It has not been possible to establish, as contemplated by the 2nd NSPCA, within Objective 2 on "Support for families", Measure 2.9. "Revising of minimum ages", a regulation with enough legal scope to homogenize the age at which people can legally consume potentially addictive substances, in line with the range of legal age of majority all over the country (2.9.2.).



Recommendations

- A clear definition of the concept of “children”, which is sometimes lacking in clarity and specificity in its range of use.
- To readopt Measure 6.2., which is already included in the 1st NSPCA (2006-2009), within its Strategic Objective 6, in order to revise the age at which the system confers legal responsibility on the actions committed by minors and to analyze if this is in line with the principles of the Convention on the Rights of the Child (CRC). This measure was also included by the Plataforma de Infancia in its Complementary Report previous to the Committee, in 2010.
- To open up the debated suggested on minimum legal ages by promoting the drawing up of statistical and comparative reports that refer to the same question in other countries.
- To increase the minimum age for the use of firearms for hunting, while also establishing a system to gather data on accidents with firearms in which children or adolescents were involved.

To open up the debated suggested on minimum legal ages by promoting the drawing up of statistical and comparative reports that refer to the same question in other countries



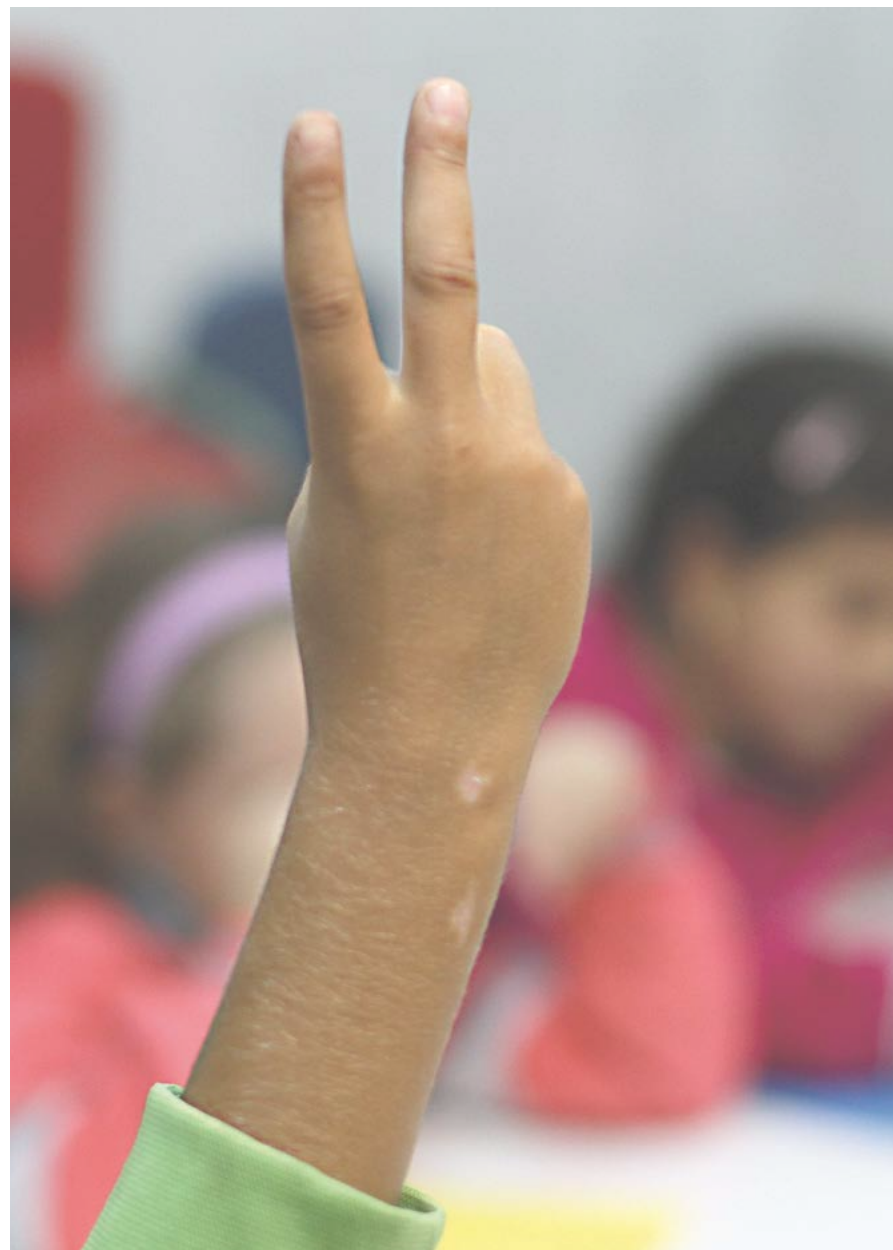


3

General principles

Measures adopted as a response to the last observations made by the Committee on the Rights of the Child (2010)

- Incorporation of the general principles as the inspirational principles of the 2nd National Strategic Plan on Childhood and Adolescence 2013-2016 (2nd NSPCA).
- Incorporation into the 2nd NSPCA of contributions made to this plan by boys and girls who participate in processes linked to child participation promoted by NGOs under the coordination of the Plataforma de Infancia.
- Passing of Law 4/2015, of 27 April, on the Statute of Crime Victims, which tries to avoid the revictimization of children and adolescents, reducing as much as possible potentially traumatic situations in their dealings with the criminal justice system.
- Passing of Organic Law 8/2015, of 22 July, on the modification of the system of protection of children and adolescents, which expressly states the prevalence of the interest of children as a guiding principle and develops the right of minors to be listened to and also substitutes the term “judgement” for “maturity” and always when referring to children from the age of 12 onwards.
- The obligation, thanks to the new national legislation, of incorporating the impact on childhood and adolescence in the reports that accompany legislative projects.





Changes both positive and negative that have taken place since the last report

Girls with disabilities still largely invisible and forgotten



- Existence of a legal framework of protection, which includes equal opportunities and non-discrimination as the guiding principle of administrative action.
- Valuing the existing organs of participation as channels for child participation in the social, cultural, artistic and recreational life of the world around them and as an exercise in active citizenship.
- Promotion of different governmental campaigns and initiatives, as well as supporting and promoting the principle of children's participation through different initiatives on a national, regional and local level, sometimes developed by NGOs, using language adapted for children and adolescents.



New areas of concern

Children and adolescents with disabilities

- Girls with disabilities still largely invisible and forgotten.

Gypsy children and adolescents

- We know about the situation of severe exclusion suffered by many gypsy families, a situation which also affects their children, especially during the economic crisis of the last 5 years. The cuts in Social Services and loss of jobs have seriously affected many of these families (see the Report on the impact of the economic crisis published by Fundación Secretariado Gitano and the Report by Fundación FOESSA on exclusion and social development in 2014, according to which almost 3 out of every 4 gypsies who live in Spain (72%) are in a situation of social exclusion, 54% of them in one of severe exclusion, more than double the figure of 4 years previously (26%, Fundación FOESSA 2009), which has an impact on the full use of their fundamental rights by gypsy children (such as those related to health, housing and education):
 - The reform of healthcare regulations by Royal Decree-Law (RDL) 16/2012, of 20 April, on urgent measures to guarantee the sustainability of the National Health System and to improve the quality and safety its services, has meant a barrier to healthcare for many Rumanian gypsy families, due to an incorrect or arbitrary application of this Law in many health centres.



- The existence of shanty towns in some parts of Spain affects the standard of living of many gypsy children, such as in El Gallinero and La Cañada Real in Madrid, El Vacie in Seville and Los Almendros in Almería (see “Human Rights are also the business of children. The situation of children in El Gallinero”, published by the Instituto Universitario de la Familia at Universidad Pontificia Comillas Madrid and Save the Children, 2014, and “Study-Map of Housing and Gypsy Population 2015”, by the Fundación Secretariado Gitano, 2016). According to the first report, the minors who live in El Gallinero are victims of violence where there are police raids and other actions in the shanty town when they are present, or when evictions or demolitions take place. The lack of a protocol of action for the police when children are present means that they suffer violence. Cases have been reported since the last report, and the last ones took place in January and July of 2016. According to the second report, there are still more than 9,000 gypsy families in Spain who live in substandard housing in uninhabitable conditions (more than 2,000 still live in shanty towns). The National Strategy for Inclusion of the Gypsy Population 2012-2020 is committed to the eradication of shanty towns by 2020.
- Existence of segregated schools and segregated classes, where there is a very high concentration of gypsy pupils which does not correspond to the gypsy of those neighbourhoods. In these cases, the quality of the curriculum and education are reduced, which affects the schooling of these children and also represents a form of ethnic discrimination (see the report “Segregación

The minors who live in El Gallinero are victims of violence where there are police raids and other actions in the shanty town when they are present, or when evictions or demolitions take place

escolar del alumnado gitano en España”. 2012. Federación de Asociación de Mujeres Gitanas Kamira and Fundación Mario Maya).

Participation of children

- Possible negative impact of the reform of the Basic Law of Local Regimes, whose effective date ended on the 31st of December 2016, on the continuity of the existing organs as channels for the participation of children and adolescents in Councils.
- Difficulty for the integration in organs of participation of socially diverse children and adolescents, especially those with disabilities.
- School Councils, as organs for child participation in school, are still not enough as they do not guarantee the participation of children in Primary and Special Education, where they do not have any direct participation.
- Participation in children’s closest environment is often reduced to sporting associations, where there is no complete representation of boys and girls, and even less so if we refer to those who are especially vulnerable and/or at risk of exclusion.



Obstacles found in the carrying out of obligations required by the CRC

Non-discrimination

- Lack of consideration with a transversal and inclusive approach of the situation of children and adolescents with disabilities taking into account the main international treaties in this field: “Convention on the Rights of the Child”, “Convention on the Elimination of all Forms of Discrimination against Women” and “Convention on the Rights of Persons with Disabilities”.
- Non-application of current legislation in terms of fighting discrimination, so that many cases that affect gypsy minors are not dealt with.
- Lack of representatives of gypsy children and adolescents in forums, public spaces and networks, so that their opinions are taken into account.
- The number of evictions in Spain over the last 6 years has left many gypsy families without a home, and their children have been deprived of this right.
- Lack of sensitivity on the part of local, regional and central administrations about the needs and the real situation of gypsy children.
- The National Strategy for Inclusion of the Gypsy Population (2012-2020) includes non-discrimination as a cornerstone and a series of indicators (some of them on education and health) that affect the gypsy population, but does not have its own indicators on non-discrimination or on gypsy children and adolescents.

Greater interest and respect for the opinions of children

- Access to administrative and judicial procedures does not always take place with due guarantees, generally due to a lack of specialized and appropriate resources, to respond adequately to the situation of children and adolescents during interviews and medical checks.
- There are not enough well trained staff and children are not properly reported and sometimes find themselves with incomprehensible information and in formats which are not accesible or adapted for their age, situation and level of maturity.
- There is no information about the measures adopted to ensure improvements in the professional capacity and sensitivity of all of the professionals responsible for taking decisions about the fulfilment of both principles.



The number of evictions in Spain over the last 6 years has left many gypsy families without a home, and their children have been deprived of this right

The production of impact reports about children and adolescents in the general report that accompanies all legislative projects is still insufficient and not well known.

Child participation

The State Report does not include the data requested by the Committee about the number of:

- a. “Organizations or associations of children and young people and the number of members that they represent;
- b. Schools that have independent school councils;
- c. Children that have been listened to in administrative and judicial procedures, including information about their age”.

Meanwhile, the information included on the Web called “Childhood in Data” is general.

Furthermore, the indicators included in the monitoring of the measures covered by the 2nd NSPCA does not have either a baseline or a target, which leads to doubts about the real possibility of measuring fulfilment. In any case, it can be observed that some of the measures included have either not been carried out or this has been done inconsistently, such as that related to the creation of studies that includes the opinion of children (Objective 8 about “Child participation and proper environments”, Measure 8.1.: “Studies of the opinion of children”). Moreover, the Plan does not include any of the most significant contributions made by children and adolescents, such as the request to not make any more reforms in Education that would lead to new curricula.



Recommendations

Effective fulfilment of legislation on non-discrimination and equality

Girls and adolescents with disabilities

- Access to justice:
 - Ensuring access to justice for girls and adolescents with disabilities.
- Health:
 - Qualitative research from a gender perspective in relation to the sexuality of children with disabilities.
 - Creation of services of guidance and support on health centres that would work to dispel myths about questions of gender and disability.
 - Awareness of the forced sterilization of teenage girls with disabilities.
- Education:
 - Adoption of measures and resources for the inclusion and promotion of girls at all levels of the education system.
 - Prevention of dropping out of school early and, above all, academic failure, understood as leaving school before the end of the obligatory period of education.
 - Creation of educational materials for professionals, families and female pupils.



- Media:
 - Training in non-discriminatory and non-sexist treatment.
 - Development of research that can offer data about the media treatment of girls with disabilities.
 - Promotion of the presence of girls with disabilities in media aimed at children.
- Family environment:
 - Increasing and improving the services of guidance and support for the families of girls with disabilities.
- Violence:
 - Combating violence against girls with disabilities in their closet environments (school family, carers), offering the support measures necessary in each particular case.

Gypsy children and adolescents

- Specific treatment of the issue of school segregation as a form of institutional discrimination, both in terms of schools and within the schools themselves, adopting measures to eliminate this practice.
- Taking into account the work of NGOs who work with the gypsy population in the design of measures and policies aimed at children.

- Adoption of special measures in cases of multiple discrimination suffered by some gypsy girls.
- Training, informing and specifically making gypsy children and adolescents aware of the defence of their rights in general and, in particular, in terms of their right to participate.

Greater interest and respect for the opinions of children

- Reduction of traumatic situations in administrative and judicial procedures (unnecessary interviews, interrupting routines, among others), adapting spaces appropriately (existence of “friendly rooms”).
- Providing specialized training for professionals involved in these legal proceedings
- Existence of enough psycho-social teams.

Ensuring the creation of proper reports on the impact on children and adolescents in the full report that accompanies all legislative projects

Child participation

- Developing proper tools to monitor indicators of the fulfilment of the principles of participation.
- Promoting permanent processes of participation with children and adolescents of all ages in schools.
- Increasing the participation of children and adolescents from all social backgrounds and groups through participation organs, commissions, participation councils, in all of the processes that affect them.



4

Civil rights and freedoms



Child participation

Measures adopted as a response to the last observations made by the Committee on the Rights of the Child (2010)

Although the 2nd National Strategic Plan on Childhood and Adolescence 2013-2016 (2nd NSPCA) devotes its Objective 8 to promoting child participation, incorporating children and adolescents both in the assessment of the 1st NSPCA and in the design of the second one, as well as being mentioned in Organic Law 8/2015, of 22 July, on the modification of the system of protection of children and adolescents, child participation is still a long way from being truly articulated in practice.



Changes both positive and negative that have taken place since the last report



- To the positive changes mentioned previously, we can add Organic Law 8/2013, of 9 December, on the improvement of educational quality, as it states that “educational Administrations are responsible for promoting the participation of pupils in the functioning of schools, through their group and year representatives, as well as their representatives on the School Council”.
- New plans for children have also been developed by local and regional administrations, which mention the importance of ensuring child participation, in line with the increase in the stable organs for this participation within local administrations.

“Educational Administrations are responsible for promoting the participation of pupils in the functioning of schools (...)”



- The new plans mentioned do not include a common methodology or a specific system so that their articulation will be effective.
- There is no official or informal register that offers data on the number of participation councils for children and adolescents that are either created or that cease to function.
- Some representatives of the Ombudsman Offices who attended the 6th National Meeting of Ombudsmen's Offices and Children's Ombudsmen's Offices, organized by the Plataforma de Infancia in October 2016, expressed the feeling that they did not perceive any real participation of children in the various stable structures of Autonomous Communities. The constitution of organs of participation is promoted, but then children and adolescents do not take part in the decisions made by local administrations, nor in the decisions about policies or other questions that affect them. Moreover, some representatives stated that did not receive complaints directly from minors and, those who did receive some complaints only received a small number.
- In line with the processes of child participation promoted by the Plataforma de Infancia and taking as a reference point the national meeting of participation councils for children and adolescents or the commemoration of the Universal Children's Day, it has been shown that normally nobody listens to children and, even when they do, their opinions are not taken into account for future decisions.

There is no official or informal register that offers data on the number of participation councils for children and adolescents that are either created or that cease to function



Obstacles found in the carrying out of obligations required by the CRC

- There is a general lack of knowledge about the rights of childhood and, particularly about the right to participate. This lack of promotion and training in stable spaces to develop children and adolescents (family, school local area or others) means that there are no stable channels for them to make use of their citizenship and, consequently, they do not trust citizen channels to solve problems or to demand what they need.
- Although, along with the aforementioned regulation, Organic Law 1/2002, of 22 March, which regulates the Right of Association, recognizes in its Article 3 that those under 14 years of age may constitute and participate in associations, whereas Article 48 of the Spanish Constitution states that "Public powers will promote the conditions for free and effective participation of young people in political, social, economic and cultural development" (which has been translated into the creation of youth councils on a national, regional and local level, as well as diverse regulation that articulate participation between 14 and 18 years of age), the teenage population between 16 and 18 years of age do not have enough space, organs or resources to articulate their participation. Most of the Participation Councils with whom the Plataforma de Infancia has been linked as an organizer of national meetings of participation councils for children and adolescents are aimed at boys and

girls younger than 16, and from that age onwards their participation concludes.

- There are no specific data about child participation in Spain (about the stable spaces for participation, the degree of use of this right and the inequality that exists between different places), making it difficult to analyze and search for solutions.
- The lack of economic resources and the low level of implication of Public Administrations, schools or other places where children and adolescents meet means that the child participation that does work is merely an accessory and, in many cases, the photo or the publicity they generate for the administration count more than the fulfilment of their rights.



Recommendations



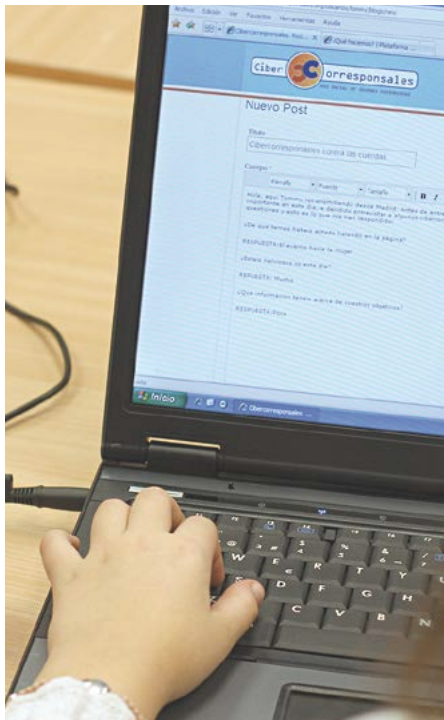
- Establishment of stable and real channels of child participation in the organs of local, regional and national administrations, which make it possible to transmit the proposals of children and adolescents in the design, monitoring and assessment of the policies that affect them.
- Incorporation of knowledge about childhood rights in general, and about the right to participate in particular, in the sphere of schools and other places where child participation is effective (town councils, associations, etc), which allow the promoción of the CRC and, consequently, the effective use of their rights by children and adolescents.
- Design of new and unified systems of action to promote child participation on the part of public administrations with the collaboration of experts in childhood and with the right resources, which will allow us to see how this question works all over Spain.
- Incorporation in the above of the necessary methodologies and the firm will to apply them to reach a higher level of real participation beyond the legal context.



Media and ICT

Measures adopted as a response to the last observations made by the Committee on the Rights of the Child (2010)

Although the Committee on the Rights of the Child observed in 2010 that it was pleased to see the passing of Law 7/2010, of 31 March, General Law on Audiovisual Communication, today the media and the information and communication technologies (ICT) have changed and the provisions included in that Law are starting to lose their effectiveness.



Today the media and ICT have changed and the provisions included in that Law are starting to lose their effectiveness



Changes both positive and negative that have taken place since the last report



- The protection of the contents of TV programmes is established through self-regulation. The Self-Regulatory Code on Television Contents signed by most of the TV operators is in charge of this regulation. In 2015, a step forward was taken with the modification of the age-based classification system of TV programmes, making it more precise. This system was verified by the National Market and Competition Commission and has facilitated the use of the parental control system.



- In 2013, the Digital Agenda for Spain was published, which established indicators and objectives regarding the use of ICT in Spain. This Agenda, which is still in force, did not include protection or better access for children and adolescents to ICT. Spain lacks a legal framework that protects or helps children and adolescents to make an educational access to the Internet or, more specifically, to social media, thus leaving in the hands of private companies the policies of online protection of minors.



- The 2nd NSPCA devotes Objective 3 to the media and ICT, including measures to promote rights and protection for children in relation to this question. Nevertheless, as has been indicated in Section 1 of this report, since its approval there has been a lack of clarity about the institutions involved in its implementation, monitoring and assessment; the indicators did not have a baseline or targets; their budgetary estimation was subject to fulfilment of the objectives of budgetary stability and financial sustainability; and in January 2017 it still did not have any final assessment programmed.
- Although Law 26/2015, of 28 July, on the modification of the system of protection of childhood and adolescence, expressly mentions digital and media literacy and recognizes the right of children and adolescents to access information, little effort has been made to carry out quality programmes. The legal framework is oriented more towards the protection of contents than the development of these to contribute to this literacy. Only public television (Clan TV) offers this kind of programme and aimed only at a particular audience (0-13 years of age). On other channels, very little is offered. The new programmes aimed at children and adolescents on private television channels, including cable TV, do not remotely attempt to offer quality contents or respect children's viewing schedules, which are supposed to be protected. Furthermore, both adverts and self-promotion spaces tend to insert contents that are not appropriate in the middle of children's programmes.
- Despite the aforementioned facts, the last report published by the Joint Commission of the Self-Regulatory Code in 2015, registered 178 complaints, of which only 16 were assessed as inappropriate and finally ruled out by the Self-Regulatory Committee. The system of self-regulation lacks the necessary rigour grantuse the members of the Committee are in fact both judges and being judged at the same time when answering the complaints.
- The only regulatory institution established in the General Law on Audiovisual Communication was the National Audiovisual Media Council, in charge of ensuring the correct application of the age-based classification criteria in order to guarantee that TV operators apply their criteria respecting child protection instead of audience shares. Nonetheless, in 2016 the Government opted not to create this Council due to budgetary cuts.
- In general, some small improvements have been made in the field of self-regulation that affect children and adolescents, such as those found in adverts for food and toys.
- Moreover, as the Introduction to the General Law on Audiovisual Communication warned "digital technology has broken this model and means an exponential increase in radio and TV stations (...). There is also an increase in access to audiovisual media and audiences are multiplied but, for this same reason, they become fragmented. The Internet has appeared as a competitor in terms of contents", offering a range of contents that viewers can choose and providing them with a broader and more diverse access thanks to different devices (mobile phones, tablets, PCs, etc.), not only television. This new form of consuming or controlling contents lacks the necessary protection, and gives operators the power to incorporate mechanisms of parental control during the child viewing times established by a code of self-regulation which is already obsolete.
- According to the latest data published by the Spanish National Institute of Statistics in 2016, through a survey on equipment and the use of ICT in homes, in the framework of a survey about standard of living, access to ICT by children and adolescents (10 to 15 years of age) is practically universal (94.9% use computers and 95.5% use the Internet). Nevertheless, according to the survey called EU Kids Online, 40% of children and adolescents between 11 and 16 do not know how to make a safe use of the Internet and 60,2% consider that their parents lack the technical knowledge to help them make safe use of the Internet (digital gap).



Obstacles found in the carrying out of obligations required by the CRC

- Lack of a work-life balance for parents means that a great deal of children and adolescents are at home alone in the afternoons/evenings, which makes it difficult for their parents to control their use of media and ICT at the times in which TV audiences are highest, leading to phenomena such as “digital babysitters” and “latchkey children”.
- The non-existence of regulation about access and protection of children and adolescents on social media and the Internet, with no signs of initiatives in this sense over the last few years (for example, Spain has postponed until 2018 the establishment of a minimum age of control by parents in order to access social media, using the time limit stipulated in the new European regulation on data protection).
- Lack of knowledge of ICT and the risks associated both for children and adolescents and for the adults around them, thus broadening the breach in terms of social perception of online and offline reality in a school and family setting.



Recommendations

- Development of a legal framework that would regulate the protection of children and adolescents in relation to the media and ICT, with a transversal approach which promotes the safe use of the Internet and social media on a national level.
- Creation of the National Audiovisual Media Council (CEMA in Spanish) as a stable organ for the monitoring and regularization of audiovisual contents, substituting the current system of self-regulation.
- Creation of a new simple system of citizen participation that allows people to make complaints about the lack of child protection in audiovisual contents (TV, cinema and social media) and whose verdicts will be binding for Public Administrations.
- Rationalization of working schedules to enable a better work-life balance in order to assist the digital literacy process of children and adolescents in the company of their parents or legal guardians.
- Encouragement and promotion of the development of new digital contents with greater quality and variety as an indispensable requirement to broadcast any programmes to a large audience.



5

Violence against children



Measures adopted as a response to the last observations made by the Committee on the Rights of the Child (2010)

Different measures have been promoted since the last report, including certain legislative changes, which, although they have had a positive impact which will now be explained, still leave some room for improvement.



Changes both positive and negative that have taken place since the last report



- Approval of the 2nd National Strategic Plan on Childhood and Adolescence 2013-2016 (2nd NSPCA) which, although it extended the measures aimed at combating violence, had different weaknesses right from the beginning, which were already highlighted in Section 1 of this report which refers to the general measures of application.
- 2014 updating of the Basic Protocol for intervention against child abuse in the context of gender violence, made by the Childhood Observatory, which meant a review of the previous one made in 2007, adapting it to the circumstances of children and adolescents who live in environments where there is gender violence or any other form of violence against girls (such as female genital mutilation or forced marriages).
- Ratification in 2014 of the Convention of the Council of Europe on the prevention of violence against women and domestic violence (Istanbul Convention) through Organic Law 1/2014, of 13 March, on the modification of Organic Law 6/1985, of 1 July, on the Judiciary, related to universal justice, which gives competence to Spanish jurisdiction to find out about crimes committed by Spaniards or foreigners outside of national territory and which can be classified as crimes according to the Istanbul Convention.



- Passing of Law 4/2015, of 27 April, on the Statute of the victims of crime, which considers the specific needs of minors who are victims of crime, although it is not a specific law for children and adolescents integrated into a broader strategy. It does not include any plans for measures aimed at the recovery of the victim and the restoration of his or her rights; the legal process, as it is designed at present, leads to revictimization; and there are also no effective measures aimed at children and adolescents who commit crimes from the perspective of rights and reintegration.
- Passing of Organic Law 8/2015, of 22 July, on the modification of the system of protection of childhood and adolescence, and Law 26/2015, of 28 July, on the protection of childhood and adolescence, which introduced modifications in the Legislation to combat violence against children:
 - Combating violence has been established as a guiding principle for the action of public powers.
 - Adoption of a broad definition.
 - In relation to the previous question, extension of the category of victims to minors who are the children of victims of gender violence, observing as a consequence during the first quarter of 2016 some growth with respect to the same period in 2015 in terms of the withdrawals of custody, suspensions of visiting arrangements and the precautionary suspensions of parental authority to abusive parents. Nevertheless, it is necessary to give some specific consideration to their needs and to train court officials in this field.
 - Reinforcement of the obligation of everybody to report a crime if they know that it has been committed against minors.

- Creation of a register of sexual offenders.
- Detailed regulation of the specific protection centres for minors, even though there is still a certain legal uncertainty about these centres as their functions are not clearly defined nor is it made clear which children and adolescents their services are aimed at.
- Passing of Law 42/2015, 5 October, on the reform of Law 1/2000, of 7 January, on Civil Procedure, whose third additional provision modifies Law 1/1996, of 10 January, on free legal assistance. Although it states that a minor who is the victim of a crime has the right to free and immediate legal assistance, regardless of the economic capacity of their parents, this is not happening in practice, either grantuse this service is not provided or it is not provided immediately.
- Reform of the Penal Code:
 - Incorporation of aggravating factors when the crimes are committed against children under 16. Nevertheless, the reform not only leaves out minors between 16 and 18, but this response also has a punitive approach towards the aggressor.
 - Raising of the age of sexual consent as mentioned in this report.
 - Fulfilment of the obligation of transposing European Directives, introducing new types of crimes and against freedom and sexual integrity, as well as crimes against the honour, image and privacy of minors, and crimes related to the sexual exploitation of children, reinforcing the sentences in these cases.
 - Incorporation of forced marriage as a crime through Organic Law 1/2015, of 30 March, which modifies Organic



Law 10/95, of 23 November, on the Penal Code, in Article 172a, which condemns human trafficking which leads to forced marriages (paragraphs 1 and 4 of Article 177a).

- Awareness campaigns aimed at preventing corporal punishment. However, these have not been integrated in a broader plan, and those made by the administration about positive parenthood and good treatment have not had the desired social impact in the fight against violence as a corrective or educational measure. Moreover, the lack of effective assessment of these campaigns makes it difficult to improve both their contents and their impact. It is necessary to make society aware of the need to totally reject violence against children, putting special emphasis on the empowerment of children and adolescents.
- Consolidation of the Unified Register on Child Mistreatment as a system to register cases of domestic child mistreatment, positively valuing advances in its development and consolidation. Nonetheless, this is a register for notifications which does not allow us to know how many cases have been confirmed as child mistreatment and how they have been solved. Moreover, it does not register as forms of violence cases of child mistreatment outside of the family, which means that it is not a reliable tool to reflect reality and is clearly insufficient to show the true dimension of the problem.

It is necessary to make society aware of the need to totally reject violence against children, putting special emphasis on the empowerment of children and adolescents



New areas of concern

- Gender Violence:
 - Children of victims: according to the major survey made by the Government Delegation on Gender Violence in 2011, 840,000 minors were exposed to the gender violence suffered by their mothers and 517,000 suffered violence directly in actual situations of gender violence towards their mothers. Since 2013, 120 minors have lost their mother, and over the last decade 44 have been murdered by their fathers, 26 of whom were murdered during regulated visits.
 - Women who do not report violence cannot access protection measures for themselves and their children and are left without most of the resources available. We can also highlight the varying attitudes of courts from one Autonomous Community to another in terms of granting protection orders.
 - Gender Violence among adolescents: according to the major survey made in 2015 on Violence against Women, the percentage of young women from 16 to 19 whose have had a partner at some point and whose partner has been violently controlling towards them over the last 12 months is as much as 25%.
 - Female Genital Mutilation (FGM): the data from the report “FGM in Spain” (Government Delegation on Gender Violence, Ministry of Health, Social Services and Equality, 2015), estimates that there are 17,000 girls at risk. 70% of female asylum seekers in the EU, from countries where FGM is prevalent, are affected by this problem. There is a greater awareness and commitment from institutions and society, and there are



some action protocols (national and regional), mainly in the healthcare sector, but also in social, educational spheres and on the part of the police. Nevertheless, there is still a lack of resources for prevention, including training for authorities and professionals, community work and awareness campaigns aimed at those affected. There is no register of cases.

- Forced Marriages: in Spain there is no data on the number of cases that might exist. Families often use a trip to their home country to force a marriage, following a procedure which is analogous to FGM. It is necessary to reinforce the work carried out on awareness and training in order to make it easier to detect families at risk; raising awareness and promoting the involvement of those communities that practice this, joining efforts to transform the risk environment faced by girls, empowering them with resources and abilities to face these risks.
- Obstetric Violence: the Strategy of Attention to Normal Childbirth in the National Health System of the Ministry of Health and Consumer Affairs (2008) and its document “Care since birth. Recommendations based on proof and good practices” (Ministry of Health and Social Policy, 2010) establishes the non-separation of the baby and the mother as good practice. Nevertheless, it is not respected in many hospitals. Only 50% of women mentioned having had skin-to-skin contact (the recommendation of new born babies having skin-to-skin contact with the breasts and belly of their mothers). The Report responds to the first assessment of the Strategy of Attention to Normal Childbirth in the National Health System carried out in 2011.
- Bullying and cyberbullying: the results of the Report by Save the Children Spain (“I don’t play that. Bullying and cyberbullying in childhood”, 2016) reflect that 9.3% of children and adolescents suffer traditional bullying (111,000) and 6.9 suffer from cyberbullying (82,000), and there is a gender difference as there are more girls who are victims than boys. However, there is no official public data about this. It is necessary to focus on bullying and cyberbullying as forms of violence. Thus, the State must provide a unified response on a national level, with measures aimed at all those involved, which should range from prevention to reinsertion of the aggressor and the observers. Therefore, it is necessary to compile data on victims on a regional and national level, and to take measures that go beyond plans for coexistence (whether or not they are national ones).
- Violence in the digital environment: the uncontrolled use at increasingly earlier ages of the latest devices exposes children and adolescents to new forms of digital violence (grooming, websites that encourage harmful behaviour, etc.).
- Hate crimes: the report by the Interior Ministry on hate crimes in 2014 shows that 25% of the victims were minors. In the latest report by this institution, that percentage was around 15%, and the main causes of victimization were sexual orientation or identity, racism or xenophobia and disability, of which the most common crime was sexual abuse. Despite this decrease, public powers must take measures to avoid this type of discrimination and violence.



- Lesbians, gays, transsexuals and bisexuals (LGTB): the European Union Agency for Fundamental Rights states that more than 8 out of every 10 participants in a specialized survey have witnessed some type of negative comment or conduct towards an LGTB classmate at school. The LGTB Collective of Madrid (COGAM) published a report entitled “LGTB-phobia in classrooms 2015” which showed that 60% of adolescents have witnessed homophobic aggressions at their secondary schools and 15% of LGTB students suffer cyberbullying. According to the aforementioned report by Save the Children Spain, 3.2% of the victims of bullying and 4.2% of those who have suffered cyberbullying have been victims due to their sexual orientation. Moreover, the study “Homophobic bullying in schools and risk of suicide by LGBT adolescents and young people”, published by the State Federation of Lesbians, Gays, Transsexuals and Bisexuals (FELGTB) and COGAM (2012), interviewing 650 people under 25 years of age, showed that homophobic bullying at schools led 43% of those who suffered it to contemplate suicide.


In general, it should be pointed out that many of the guarantees, rights and forecasts contained in the diverse measures that we have just referred to are not being respected, perhaps due to a lack of knowledge of them on the part of professional teams, public employees or the relevant authorities or perhaps due to a lack of resources with which to make them effective.

The LGTB Collective of Madrid (COGAM) published a report entitled “LGTB-phobia in classrooms 2015” which showed that **60%** of adolescents have witnessed homophobic aggressions at their secondary schools and **15%** of LGTB students suffer cyberbullying





Obstacles found in the carrying out of obligations required by the CRC

- Non-existence of a specific Law on violence against children.
 - Lack of general awareness by society of the need to reject this violence.
 - Lack of resources devoted to this cause.
 - In particular, in relation to Organic Law 8/2015, of 22 July, on the modification of the system of protection of childhood and adolescence, and Law 26/2015, of 28 July, on the modification of the system of protection of childhood and adolescence, there is a worrying lack of funding. The texts themselves state in one of their final provisions that “the measures included in this regulation will not mean an increase in public spending”, which leads to a contradiction as it is impossible to apply this legislation without an increase in public spending, not only for protection institutions, such as municipal social services or regional social services, but also for Juvenile Prosecution Services who have responsibility for many of these questions.
 - Absence of a proper system of data collection about children and adolescents who are victims of violence in all spheres. The latest data from the Ministry of Home Affairs in 2014 revealed that 36,821 children and adolescents were victims of some crime or misdemeanour in Spain; 47 children and adolescents were victims of attempted homicides or murders, of whom 23 dead, 5 more than in 2013; 3,349 were victims of domestic violence, 287 more than in 2013; and 3,732 were victims of crimes against sexual freedom, including sexual abuse, 368 more than the previous year.
 - Lack of adaptation of the legal system to the needs of children and adolescents.
- 
- Insufficient training of the professionals involved.
 - The specialized teams who work with child and teenage victims (specialized groups of the police force, specialized pediatric units, forensic medicine clinics, psycho-social teams at courts, regional protection services, social services for primary healthcare, victim support offices, specialized resources, etc.) still do not have sufficient human resources and materials to guarantee their proper functioning.
 - Insufficient capacity for prevention on the part of professionals, mainly in terms of the creation of protective environments, early identification and notification.
 - Lack of effective territorial and administrative coordination.
 - Lack of a system of reintegration of children and adolescents who are victims of crimes.
 - Most entities that provide services for children lack internal preventive instruments, such as codes of conduct for the proper treatment of children and adolescents, protection policies and action protocols for suspicious cases.
 - Lack of training and awareness about gender violence as a transversal element in violence against children.



Recommendations

- Creation of an Integral Strategy to Combat Violence against Children, which should be articulated around an Organic Law on Violence against Children, which would involve Administrations on different levels and which proposes measures of prevention, detection, intervention and restoration. That is to say, it should include the following elements:
 - Measures aimed at awareness and intervention that can allow us to improve early detection and identification as well as the physical and psychological assistance provided to children and adolescents who are victims of any type of violence.
 - An integrated legal response, which would cover both procedural norms and substantive criminal civil norms.
 - Proper training of professionals who work in the legal-healthcare system, specifying the responsibilities of each profile, their type of intervention and the forms of coordination with the others.
 - Specific jurisdiction on crimes against children and adolescents, as currently happens in Spain in the case of Gender Violence.
 - Social awareness campaigns to promote rejection of violence against children in all of its forms.
- Development of policies and protocols for protection in entities that provide services for children and adolescents.
- Passing of the 5th Action Plan against Sexual Exploitation of Childhood and Adolescence, including technologies and guaranteeing coherence between plans.
- Proper training for all of the (public and private) profiles that work with children and adolescents for prevention, detection and notification of violence, as well as for transmitting information about their rights.
- Central and regional governments must continue to provide the necessary support and dissemination to the telephone number 116111, the “child helpline”, as well as other complementary telephone numbers as an essential tool available for all children, adolescents and adults for the prevention and detection of violence.
- The State must also commit itself to funding, sustaining and informing about the European number 116000 for cases of children and adolescents who have gone missing.
- Gender Violence:
 - It is essential to provide psychosocial assistance for children and adolescents exposed to this violence, in order to palliate its consequences and facilitate learning about other patterns of healthy family relationships.
 - It is also necessary to increase the specialized resources for minors who are victims of Gender Violence, thus complying



with the Istanbul Convention. It is not always possible to access these resources early on in the process, and some requirements to access them can often turn into barriers: the need for authorization by both parents.

- Reinstating subject called Citizenship Education, as it would help to prevent gender violence and this request has been made by the Committee on the Elimination of Discrimination against Women.
 - FGM: resources need to be devoted to: the creation and application of protocols with specialized itineraries for prevention and intervention; training of professionals in the sectors involved; reinforcing community work with the immigrant population which is affected, with intercultural mediators, to inform and create awareness about its consequences and promote a change in attitudes; improving the register, identification and monitoring of girls at risk; reinforcing coordination among actors.
- Monitoring of the implementation of school coexistence plans and policies to prevent school bullying.
 - LGTB:
 - Inclusion in the Unified Register of Child Mistreatment of the index “In questions of reporting of the violation of rights: Notifications of child mistreatment grantuse of sexual orientation and gender”.
 - Recognition of obstetric violence as a form of violence against children, ensuring the implementation of the Strategy for attention to normal childbirth in the National Health System, involving scientific societies in the training and monitoring of good practices to offer quality attention based on scientific evidence and respecting Human Rights.
 - Participation of children and adolescents in the development, implementation and assessment of all of the measures proposed.

Creation of an Integral Strategy to Combat Violence against Children, which should be articulated around an Organic Law on Violence against Children, which would involve Administrations on different levels and which proposes measures of prevention, detection, intervention and restoration





6

Family environment and alternative care

Measures adopted as a response to the last observations made by the Committee on the Rights of the Child (2010)

In relation to family environment and alternative care, the Committee demanded of the State:

- Reinforcement of assistance for parents and legal guardians (particularly those at risk) in the exercise of their parental responsibilities: in 2013, the 2nd National Strategic Plan on Childhood and Adolescence 2013-2016 (2nd NSPCA) was approved, and in 2015 the Integrated Plan for Family Support 2015-2017 was also passed, which include different measures to support positive parenthood within its objectives and strategic lines. There is a particular focus on measures aimed at family preservation and strengthening through training in parental skills and educational patterns free of violence, as well as support (prevention, promotion, detection and evaluation) for family situations that may have a negative impact on children and adolescents that may lead to a lack of protection.
- Adoption of the necessary measures to ensure that there are no children below the poverty line: in 2013, the Government approved the National Plan for Action on Social Inclusion in Spain 2013-2016, which sought to fulfil the Recommendation of the European Commission in 2013, “Investing in childhood: breaking the cycle of disadvantages”, which considers the reduction of child poverty to be a transversal objective and includes measures to support the access of parents to the labour market, as well as quality social and public services.
- Establishment of regulations and protocols to define the limits and the type of attention provided for children with behavioural problems, as well as the criteria to send them to specialized protection centres: Organic Law 8/2015, of 22 July, on the modification of the system



of protection of childhood and adolescence, considers that children and adolescents should only be sent to these centres where there are no alternatives which are better for their general interests, and suggests that the measures to be applied should always be aimed at normalizing behaviour, the free and harmonious development of personality and family reintegration.



Changes both positive and negative that have taken place since the last report



- There has been a slight decrease in the total of children and adolescents dealt with by the system of protection (from 42,569 in 2013 to 42,521 in 2014) and a slight increase in residential placements (from 13,401 in 2013 to 13,563 in 2014). On the other hand, there has been a considerable decrease in the number of family placements. Even so, family placements are still the main protection measure adopted by the Autonomous Communities, with a prevalence of the extended family (70%) over other families (30%). The higher number of residential placements compared to family placements over the course of the year (10,235 compared to 4,409) refers to very short stays in both cases and a preference for measures that insist on keeping children and adolescents in their own family environments.
- Nonetheless, there is a will to establish better mechanisms for coordination between the different Public Administrations and civil society; NGOs are involved in the legislative reforms and the action plans linked to childhood and the family; there is an increased participation in the services that guarantee the welfare and protection of children and adolescents as well as attempt to incorporate the experience of these organizations in the creation of body of scientific knowledge to agree on and guarantee good practice.



- There is an increase in the allocation of credit to the programmes that promote the welfare of children and adolescents, as well as the family strengthening and preservation funded by the state through programmes of general interest for Tertiary Sector organizations from the 0.7% that comes from Income Tax and is administered by the Ministry of Health, Social and Equality.



- There are still no effective national mechanisms to know about the reality of the system of protection of childhood (evolution of risk declarations, evolution of protection measures adopted, etc.).
- Work is being done for family reintegration, but this is only achieved in 13%-18% of cases, and therefore it is necessary to reinforce parental education with the children's family.
- The reduction in public investment in prevention and family preservation, which depends on the Local Administration, represents a great obstacle to help parents and legal guardians to exercise positive parenthood and thus meet the needs of the children and adolescents they are responsible for. As pointed out in the analysis published in 2014 by the CC.OO. Trade Union, "Assessment of the Integrated Plan for Family Support (IPFS) 2015-2017" (Madrid, Secretariat of Social Protection and Public Policies), the sphere of action of this Plan is the State General Administration and the actions that it proposes are mainly the responsibility of regional governments or local corporations. Furthermore,



in the State General Budget in force in 2016, there was only one budgetary allocation linked to this Plan for the sum of 32 million euros (M€), a long way from the 5,394 M€ of spending foreseen for that year. Additionally, the Autonomous Communities, who should have funded the implementation of the measures, made cuts of 10.3% in their investment in childhood between 2007 and 2013, which has had a direct impact on decision-making about the protection measures adopted in some Autonomous Communities. Their work will be unfeasible if this reduction in spending is not reversed.

- The limitation of resources from the Basic Social Services reduces their capacity to set up programmes of prevention and early detection, restricting guarantees in the rights of children and adolescents to be protected. The local entities have started to take on more and more responsibilities without seeing any increase –sometimes there is even a decrease– in their resources, and the Social Services are sometimes slow to diagnose risk situations. On many occasions, there is no other option but to use the services offered by social organizations, which since 2010 have increased by some 5.3 M€ their direct attention, although they have also warned that their resources are being drained by the excess demand diverted from the Social Services.
- Another field that has been affected by the decrease in resources is the judicial system. There are often breaches observed in the legal agreements concerning divorces and separations decided by courts, which submit children and adolescents to alienating family practices and the system lacks the means necessary to detect and take measures that can protect them from the manipulation used by their parents. The European Council encourages its member states to promote

family mediation and Spain has accepted this recommendation both in the 2nd NSPCA and in the IPFS. Nonetheless, there is a significant lack of knowledge about this question and its benefits for citizens and it is applied very differently from one Autonomous Community to another. Family mediation could be applied to improve shared custody agreements (nowadays, it is only given priority in some Autonomous Communities such as Aragon or the Basque Country).

- Risk is still conceived as something that depends on the will of parents, without taking into account the multicausal and transgenerational factors that occur in these families to generate helpless situations. The contract that is proposed for them places all of the responsibility on these parents and not on public powers, through support systems that have the duty to provide, within the sphere of their responsibilities, the maintenance of the children and adolescents that they have in their charge or their reintegration in cases of separation.
- The Plan is insufficient to combat child poverty. According to Save the Children Spain, it does not start from a diagnosis of the causes, an integrated vision to guide public intervention or resources specifically aimed at fighting this problem. Thus, it does not include childhood in the chapter devoted to the most vulnerable groups, when children are the group most affected by poverty and exclusion in Spain. Furthermore, despite the commitment expressed by public powers, investment in childhood policies has decreased by 16.4% between 2010 and 2013, which has been accompanied by an increase in the child poverty index (AROPE indicator) of 3.2% from 2013 to 2014. Regarding 2015, although there has been a slight decrease of 1.4%, the improvements in this indicator are due among other causes to “(...) the fact that more than 50,000



foreign minors left the country, along with the reduction in the size of homes that has happening since some years ago (...)" (6th Report on the State of Poverty. Monitoring the indicator of the risk of poverty and social exclusion in Spain 2009-2015. European Anti-Poverty Network in Spain, EAPN-ES. 2016).

- As unemployment is one of the main causes of families entering into a situation of poverty or exclusion, the job promotion measures included in the Labour Reform of 2012 have worsened the temporary, uncertain and precarious nature of working conditions and have made work-life balance even more difficult.
- Moreover, the benefits system has a very low level of protection as it does not provide additional support for the most vulnerable families with small children (single parent families, families with unemployed parents, etc.). From 2010 to 2012, both the number of beneficiaries and the amount provided in single payment family support were reduced, and in 2011 the 2,500€ subsidy given to the parents of all new-born or adopted children was abolished, and the annual subsidy given per child to low income families was reduced from 500€ to 291€, in line with Royal Decree-Law (RDL) 8/2010, of 20 May, which adopted extraordinary measures for the reduction of public deficit and sought to contain public spending. All of this happened at a time when 30.5% of families were living below the poverty line and 34.2% stated that they had difficulty in making ends meet.
- The recent reform of the protection system recognizes family placements as another type of measure of protection, but no mechanism have been planned yet to boost this type of alternative care, based on criteria of quality and citizen

commitment, delegating the responsibility of the State in this field to the good will of citizens. The abuse that has been made of the formula of placement with the extended family, without proper support systems (in terms of technical issues and also social benefits) has meant that the social risk has often been extended, producing the phenomenon of institutionalization among teenagers, when the family situation with the grandparents have become impossible due to the 'chronification' of the teenager's problems. The economic support systems for foster families in some Autonomous Communities are not recognized as as a subjective right, but rather as "aid" dependent on the availability of credit and their position on a points-based system.

- In relation to the protection centres for children with behavioural problems, although Organic Law 8/2015, of 22 July, on the modification of the system of protection of childhood and adolescence, stresses the need to safeguard the rights of children and adolescents with behavioural problems protected in specialized centres, as well as the supervision of quality standards in their care, there are no protocols that define the action necessary in cases in which containment is needed. Furthermore, there are currently no preventive programmes planned to avoid them entering these institutions, nor are there any programmes aimed at giving families some respite care and helping them to bring up these children. Nowadays, children and adolescents with mental health problems and/or disabilities are still entering these centres, and they should be dealt with by other specialized institutions. It would be necessary to clarify the limits between recurrent disruptive and/or dissocial behaviour and other childhood disorders, in order for these children to be referred to the right places.



- The aforementioned legislative reform in child protection has meant modifications in the Civil Code, specifically in Article 172. 5.c, which refers to the end of the guardianship of children declared to be abandoned when 6 months have gone by since they voluntarily left the protection centre and their whereabouts are unknown. However, in these circumstances not only does the situation of abandonment disappear, but also their vulnerability increases exponentially and exposes them to human trafficking, among other issues.
- On the other hand, although it is regulated that children and adolescents in care must be granted nationality in a maximum period of two years, this right is systematically violated in the case of children and adolescents in family placements due to the slowness of the bureaucratic process.
- Abduction by parents: the international abduction of a child by his or her father or mother means the unilateral decision to deprive the child of the right to be with the other parent. The main difficulties are:
 - The current wording of Article 225a of the Penal Code, based on the concept of custody rather than parental authority. This means that the abduction of children and adolescents by the father or mother who has custody is left outside of the scope of the aforementioned Article, and this is only considered a crime when the abduction is carried out by the parent who does not have custody but does have visiting arrangements.
 - Delay in the adoption of protective measures to avoid abductions via Article 158 of the Civil Code (handing over of children's ID and travel documents, prohibition of the



issue of these documents, and the closing or prohibition of leaving the country's borders and the Schengen Area). These measures are not adopted automatically. Once the judge has received the written request for these measures, he or she will summon those involved (although these measures can be taken ex parte) and, unfortunately, in many cases these court summons ask people to appear weeks or even months later. Therefore, in many cases by the time the court hearing takes place the abduction has already happened.



Obstacles found in the carrying out of obligations required by the CRC

- There are no clear and sufficient budget allocations for policies on childhood in general, nor to guarantee the legislative changes indicated in particular.
- Specifically, the passing and entry into force of Organic Law 8/2015, of 22 July, and Law 26/2015, of 28 July, on the modification of the system of protection of childhood and adolescence, have not been accompanied by more resources, creating new professional figures or attributing new responsibilities to those that already exist, but without devoting any specific budgetary allocation to that function nor measuring the overall economic impact of the measures considered. Therefore, it could be said that they contain a “zero investment” clause which, de facto, makes them impossible to implement.
- There are also great differences in terms of regulations and resources between Autonomous Communities in terms of the specific protocols for action with children in need of protection or at risk, as well as the collection and notification of the data related means of alternative care. In particular, there are no validated protocols to assess the suitability of the people who look after the children, particularly in the case of extended families, and the economic support given to family placements still differs from one region to another, and this is particularly problematic in the case of extended families.
- The legal authorization of the risk declaration is not made until the family refuses to cooperate with the intervention plan proposed by Social Services, when this should be done from the moment in which the risks are detected.
- Unfortunately, there is no culture of fostering nor campaigns to convince families to participate and there are children under 6 in residential facilities.
- Emergency placements are not regulated in detail, and there is no respect for the maximum 6 month period established to decide what protection measures to take. Moreover, some foster care periods, which should not exceed 2 years, can last 3 years or more.
- There is no clear data that reflects the finalization of the measures, including for example the reasons to end family placements or failed adoptions. There is also a lack of data about prevention, such as measures for the preservation and strengthening of the family.
- There is very little initial training demanded of the people who foster children and no recycling is offered to technical staff. The professionals who work on family placements are often not trained in child-juvenile psychopathology, nor do they have therapeutical services capable of diagnosing and treating cases of mistreatment.
- There is not enough promotion of empathy and collaboration between the biological family and the foster family.
- The support teams for family placements are insufficient and poorly equipped, and they have very high staff/case ratios and often cannot accompany the foster families as is required.
- The healthcare costs of children and adolescents in foster homes should not be covered by the foster families but by the Public Entity that is legally responsible for them. In cases of interim custody, it will be necessary for the state prosecution office or some such entity to define the contents of the “immediate assistance” that must be provided by public services, and the responsibility of the State in situations in which it is necessary to decide about children and adolescents (operations, responsibility for crimes, etc.).
- There are very few specialized foster families who can look after

children and adolescents with special needs and they receive very little support when they foster children and adolescents with behavioural problems.

- In relation to the previous point, attention to children and adolescents with behavioural problems is affected by the existence of a very small number of specialized centres, and the fact that there are few professionals in the mental health system. Furthermore, although placement in these centres has to be authorized by a judge and subsequent educational interventions have to be supervised, the current regulations do not specify the contents to be supervised.
- There is little dissemination and promotion of family mediation and its benefits, particularly for the joint care of children in cases of divorce. There are significant differences between the regulations of Autonomous Communities in terms of the training and the experience necessary to conduct family mediation and there is not the same amount of access to these services.



Unfortunately, there is no culture of fostering nor campaigns to convince families to participate and there are children under 6 in residential facilities



Recommendations

- The different administrations should clearly devote specific budgets for investment in childhood, reinforcing Social Services and trying to make access equal in both urban and rural areas.
- Specific guarantee of fairness in the resources and support systems that public administrations must offer to foster families in all Autonomous Communities and for all types of family placements.
- Improvement of the current Basic Statistics on Child Protection of the Ministry of Health, Social Services and Equality, so that it really has a unified database of protection measures and risk declarations, and it includes a portfolio of services and support offered by each Autonomous Community, in order to consolidate plans for family preservation, strengthening and reintegration. In particular, they should consider the end of the measures and the reasons why they end, as well as information about the preventive measures adopted.
- Validation of the protocols of action regarding protection measures and risk declarations for all Autonomous Communities.
- Regulatory development of Organic Law 8/2015, of 22 July, on the modification of the system of protection of childhood and adolescence, to ensure a homogeneous application that avoids differences of interpretative criteria between Autonomous Communities.
- Creation of a unified and validated protocol for the assessment of the suitability of a family placement (both

National regulation on the recommendation of family mediation in cases in which custody is disputed in separation or divorce processes



in the extended family and another one), linked to broader training.

- Creation of therapeutic teams specialized in the diagnosis and treatment of the effects of the deprivation of affection and child mistreatment in the sphere of protection and adoption.
- Clarification of the limits between disruptive behaviour and behavioural disorders and other child-juvenile disorders, in order for them to be referred to the right medical service.
- Repeal of Article 172. 5.c) of the Civil Code and speeding up the process of granting Spanish nationality for protected children and adolescents, regardless of the measure adopted.

- Parental abduction:
 - Modification of Article 225a of the Penal Code, so that it is based on the concept of parental authority and not on the current concept of custody.
 - Automatic adoption of precautionary measures at the start of any legal proceedings involving families and the return of children and adolescents, through Article 158 of the Civil Code, without the need for parties to appear (*ex parte*).
 - Requirement of written consent from both parents (as happens, for example, in Canada and Chile) for children to leave Spain, whether they go alone, in the company of a third party or one of their parents, and travel to places outside of the Schengen Area.
- Increase of public services in terms of extrajudicial family mediation, with an emphasis on its preventive potential.
- National regulation on the recommendation of family mediation in cases in which custody is disputed in separation or divorce processes.
- Study of other care alternatives as valid options to bring up children and adolescents.
- Revision of the Law on subsidies for NGOs, respecting protection and the principle of best interests, and in such a way that they are not dependent on the national credit available.
- Valuation of the need to promote rules about Family Meeting Points (already included in the previous Complementary Report published by the Plataforma de Infancia in 2010), beyond what is proposed in the “Framework document on the minimum requirements to ensure quality in Family Meeting Points” (2008), published by the General Directorate of Families and Childhood, Ministry of Education, Social Policy and Sport, and the regional regulations about this question.



7

**Disability, basic health
and welfare**



Disability

Measures adopted as a response to the last observations made by the Committee on the Rights of the Child (2010)

- In Law 26/2015, of 28 July, on the modification of the system of protection of childhood and adolescence, the wording has been adapted and the term “deficiency” has been substituted by “disability”.
- We consider to be especially positive the measure adopted by the Government aimed at the defence of children with disabilities and adolescents in the 2nd National Strategic Plan on Childhood and Adolescence 2013-2016 (2nd NSPCA), considering their specific protection and care.
- Existence of good practices for children and adolescents with an intellectual and developmental disability (IDD), with an approach focused on their standard of living in which support is aimed at improving their personal and family welfare.





Changes both positive and negative that have taken place since the last report



- The assistance provided by the Social Security to children and adolescents with cancer and other serious diseases represents a magnificent example of support for families.
- Production of the Report on “Child Mistreatment in the Family in Spain” (2011; Reports, Studies and Research, Ministry of Health, Social Policy and Equality), organized by the Reina Sofia Centre, specifying the rates of mistreatment of children with disabilities and adolescents.
- 2015 saw the beginning of the “National Programme for Research, Prevention or Intervention in Violence against Minors with an Intellectual or Developmental Disability”.
- Promotion of the Spanish Strategy on Disability 2012-2020 by the Ministry of Health, Social Services and Equality, giving priority to early school-leaving and poverty among this population, increasing the awareness of society and professionals, working in a network, and also including specific strategies and policies.
- Implementation of the Action Plan 2014-2016 of the Spanish Strategy on Disability.



- Children with disabilities and adolescents are affected by a multiple vulnerability in our society, which makes them suffer a greater degree of discrimination and have more problems to access their rights in a framework of equal opportunities.
- Children with disabilities and adolescents suffer higher levels of mistreatment (23.08%) compared to those who have no disabilities (3.87%), and therefore we can conclude that disability is a factor that increases the risk of mistreatment.
- Scarcity of research about the prevention of sexual abuse of Children with disabilities and adolescents, despite the general consensus about their greater risk of suffering violence (in general), which we have just mentioned, and sexual abuse (in particular).
- Although some advances have been made, there is still a lack of information, data and specific statistics of this population, which could offer a reliable vision of the situation and, therefore, allow us to react properly.
- Children and adolescents with behavioural or mental health disorders are being sent to Special Education centres due to a lack of available resources, with all the implications of this decision.

Children with disabilities and adolescents are affected by a multiple vulnerability in our society, which makes them suffer a greater degree of discrimination and have more problems to access their rights in a framework of equal opportunities



Obstacles found in the carrying out of obligations required by the CRC

- The greatest obstacle is not disability itself, but rather social, cultural, attitudinal and physical obstacles, which take longer to change than legislative ones. The distance between the promulgation of a right and its application is related to social attitudes and behaviour, and that is where must take action.
- The families of children with disabilities represent the first stage towards the inclusion of children and adolescents, and the statistics show how Spanish homes are the main source of support for these children and adolescents. Therefore, they must get all the support, guidance, training and information necessary, which will allow them to protect the rights of people with disabilities and adolescents in an inclusive and capacitating environment.
- Insufficient and scarce benefits in general, specifically for travel, accommodation and food for children with disabilities and adolescents or those with chronic illnesses, who are sent to health centres far from their homes, which hinders their chances to access quality healthcare in conditions of equality, a situation which is even worse for those who live in rural areas or far from big cities.
- Absence of measures to guarantee the dental health of children with disabilities and adolescents, as this is a treatment that needs proper medical facilities as patients may need to be sedated or anesthetized.
- Pharmaceutical copayment of the medication needed by minors with disabilities who are included as “beneficiaries” on one of their parents’ health documents, when the legislation states that people with a recognized disability are exempt from this copayment.
- There is a lack of training of professionals (in all spheres) linked to children with disabilities and adolescents.
- Absence of reliable and updated data on the population composed of children with disabilities. The latest study made by the National Institute of Statistics in 2008 showed that they made up 5% of the total population, and there were 138,700 children and adolescents with a recognized disability, a number which was increasing. Of that number, there were 60,400 with limitations, with ages ranging from 0 to 5 years of age (36,400 were boys and 24,000 girls), and 78,300 children and adolescents with some type of disability, between 6 and 15 years of age (50,600 were boys and 27,000 girls). In this survey, there were no disaggregated data for adolescents between 16 and 18 years of age.
- Insufficient knowledge of the elements of register, monitoring and differential diagnosis typical of children with disabilities and adolescents who suffer violence.
- Lack of effective and inclusive education of children with disabilities and adolescents.
- The most recent figures have alerted about the rise in the number of pupils in Special Education centres, which goes against the contents of the Convention on the Rights of Persons with Disabilities, in a clear defence of inclusive education for people with disabilities.
- Lack of accesibility and, above all, general adaptation, specifically in the fields of play and leisure, which stops children with disabilities and adolescents from participating in common activities and generates isolation and violation of their rights.
- Dispersion and bureaucratization of services aimed at disability.



Recommendations

- The protection and specific attention to children with disabilities and adolescents and their needs must be constantly present in all actions, measures and policies that are adopted in relation to childhood: the principle of non-discrimination on the basis of disability must be transversal in order to change attitudes.
- In relation to the previous point, multiple discrimination must be combatted through the repeal of legislation, policies and practices that stop children with disabilities from enjoying their rights.
- Permanent defence of rights and provision of resources with commitment and coherence, in order to develop more effective public policies and intervention strategies.
- Promotion of the implementation of programmes focused on health (improving the healing and rehabilitation services): the right of children and adolescents to grow and develop to the best of their possibilities and live in conditions that allow them to enjoy their lives in the healthiest way possible.
- Elimination of pharmaceutical copayment of the medication for children with disabilities and adolescents who are “beneficiaries” on the health documents of one of their parents.
- Children born prematurely are at biological risk because the conditions that they experience at birth may alter their personal maturing process. It is necessary to take measures to prevent premature births and possible development problems, as well as giving greater visibility to these children and their families, helping to defend their interests in relation to public powers and society.
- Emphasis on two lines of action: research and training related to the sphere of disability and chronic illness, based on the compilation and analysis of data related to the situation of children with disabilities.
- Development of inclusive educational plans for children and adolescents with disabilities and general developmental disorders. It is necessary to link the concepts of excellence and diversity as enriching and necessary elements that promote an inclusive approach to education.
- Ensuring the right to live in accessible physical and technological environments, especially including the adaptation of play areas and other facilities, supporting the integration and visibility of these children and adolescents.
- Prevention is the best approach: reviewing and greater effectiveness in early care services. Early care must be dealt with from a global perspective, respecting diversity, and coordinating all the determining aspects in the lives of children and adolescents, especially in terms of healthcare, education and social issues, and focusing on the family and children, who are at the heart of this question. It must be conceived as an instrument that permits better development and enjoyment of their rights, and also an essential tool to provide families with enough knowledge to be able to interact with their children.

Dissemination, attention and information for the families of children with disabilities and adolescents about the services they have at their disposal, speeding up bureaucracy and ensuring their right to receive specialized services

- Dissemination, attention and information for the families of children with disabilities and adolescents about the services they have at their disposal, speeding up bureaucracy and ensuring their right to receive specialized services.
- Elaboration and development of respite care for families.
- Promotion of inter-institutional and inter-professional coordination: the importance of creating new spaces for collaboration with citizens, professionals, administrations, entities and organizations that identify with the objectives of prevention of mistreatment and violence against children and adolescents with IDD and the promotion of good treatment as the most effective strategy.
- Setting up of preventive and early intervention strategies aimed specifically at the sphere of violence and sexual abuse of children with disabilities and adolescents. These strategies must offer specialized training for all of the professional profiles involved and adapting assessment protocols, measuring instruments, and forensic-medical interviews, among other measures.
- Support for the creation of organizations and networks for children with disabilities.
- The media play a fundamental role in the defence and dissemination of a proper image of children with disabilities and adolescents, far removed from stereotypes and in line with the perspective of Human Rights for this social group.



Basic Health

Measures adopted as a response to the last observations made by the Committee on the Rights of the Child (2010)

- In 2011 the Ministry of Health, Social Services and Equality published the “Guide to Clinical Practice about Attention Deficit Hyperactivity Disorder (ADHD) in children and adolescents”, within its collections of Guides to Clinical Practice in the National Health System, although on the cover of the document there is a note that informs that more than 5 years have gone by since the publication of this guide and that the updated version has still not appeared.
- In 2012, an early warning system was set up to detect the presence of new substances and the risks associated.
- In 2014, a new medical speciality called “Child and Adolescent Psychiatry” was passed by Royal Decree 639/2014, of 25 July, which regulates the subject, the re-specialization and the specific areas of training, establishes the rules applicable to the annual entrance tests for training places and other aspects of the specialized training system in Health Sciences and creates and modifies determined official categories of specialist.
- The Health Mental Strategy in the National Health System has also been updated until 2019.
- In 2015, the Ministry of Health, Social Services and Equality set up a campaign about HIV and other sexually transmitted diseases (STDs): “HIV and other sexually transmitted diseases can affect you too”.



Changes both positive and negative that have taken place since the last report



- Autonomous Communities are carrying out research projects that contribute to the psychiatric treatment of and attention to children and young people.
- The assessment of the latest Multisectorial Plan regarding infection through HIV/AIDS 2008-2012 showed positive results in prevention, information, diagnosis and attitudes towards people with HIV.



- Royal Decree-Law 16/2012, of 20 April, on urgent measures to guarantee the sustainability of the National Health System and improve the quality and safety of its services, has led to a worsening in the quality and the safety of the services provided to families, and does not ensure universal access to healthcare (especially in the case of the gypsy and immigrant population).
- The 2013 National Programme of Reforms and the Plan for Stability in Spain 2013-2016 reduced spending on healthcare between 2012 and 2014 by 7,267 million euros (M€), so that public spending on healthcare in 2016 was not more than 5.4% of gross domestic product (GDP), which represented an unprecedented setback.



- In certain cases, there is no guarantee that children and adolescents can be accompanied without restrictions by their parents or legal guardians in intensive care units and other medical situations.
- Lack of continuity in treatment where there is a change of pediatrician or doctor.
- Abuse of pharmacological treatment of children and adolescents, especially for mental health disorders.
- Existence of cases of medical referrals to private centres of children and adolescents with mental health disorders, where parents are registering them without any type of authorization or legal supervision.
- Appearance of new addictions, along with a lack of prevention regarding certain habits such as the consumption of energy drinks, the use and abuse of mobile phones, the Internet or addiction to gambling.
- Increased in an unbalanced diet among children and adolescents with a prevalent tendency towards being overweight or obese among children and young people.
- Special risk found among breast-fed babies and small children when they begin to adopt the wrong dietary habits and a problematic relationship with food. This is made worse by the exposure of their carers to misleading advertising and unethical practices in the advertising of food for children.
- There has been a confirmation of the fact that sexual relations



start sooner and sooner, which leads to an increase in the number of abortions and STDs among children and adolescents, as well as the late diagnoses and hidden infections, despite the widespread use of condoms and other contraceptives.

- HIV/AIDS have undergone an enormous evolution in terms of research, but this has not been the case in terms of legislation. The lack of definition of the concept has made it difficult to respect the rights of those who are deemed to have an “infectious disease” rather than a “transmissible disease”.

Organic Law 11/2015, of 21 September, has also been passed to reinforce the protection of minors and women with a modified capacity in abortions, as previously mentioned in Section 2 of this Report on the “Definition of the child”.

The 2013 National Reform Programme and the Plan for Stability in Spain 2013-2016 reduced spending on healthcare between 2012 and 2014 by 7,267 million euros, so that public spending on healthcare in 2016 was not more than 5.4% of GDP, which represented an unprecedented setback



Obstacles found in the carrying out of obligations required by the CRC

- Royal Decree Law 16/2012, of 20 April, has led to a barrier to healthcare, specifically in the case of the gypsy population (mainly from Eastern Europe) and the immigrant population in general, and this has caused severe exclusion.
- The increase in the contribution made by healthcare users to the cost of their medication may compromise the ability to access this service on the part of homes with children and adolescents.
- Children’s development takes place mainly in the family, and in this direct relationship with their parents there is a lack of direct support for families.
- Transfer of powers in terms of healthcare and childhood to Autonomous Communities by the State, which means fragmentation in the fairness of healthcare provision for children and adolescents. Each Autonomous Community applies different resources, criteria and priorities, such as the calendars for vaccinations, which vary from one Community to another, thus creating discriminatory situations in which children and adolescents have (free) access to some vaccinations in some Autonomous Communities but not in others.
- There is no uniform and validated information in all Autonomous Communities about mental health disorders in children and young people or about risky sexual behaviour.
- Despite the existence of mental health disorders which are under-diagnosed or detected very late, 20% of children and adolescents suffer from some psychiatric disorder, and this figure reaches 53% in the case of children in protection.

Transfer of powers in terms of healthcare and childhood to Autonomous Communities by the State, which means fragmentation in the fairness of healthcare provision for children and adolescents



- Even with the approval of the medical speciality of Child and Adolescent Psychiatry, there is still very little training in psychopathology for children and young people.
- There is no regulation on a national level that limits the use of specific medication for ADHD.
- Lack of services in prevention of early consumption compared to the services for consumption that has already started (although these are scarce too), particularly in relation to new addictions.
- Although there is an International Code of Marketing of Breast-Milk Substitutes, which dates from 1981, in Spain this code is violated in all Autonomous Communities. Social emergency programmes are mainly welfare oriented and the food handed over contains children's food products that contravene the Code and there are no measures to reinforce and accompany breastfeeding.
- The studies related to the estimation of excess weight and obesity in children and young people in Spain are fairly recent, but they are a cause for concern due to the high prevalence they reveal. The National Health Survey in Spain for 2011-2012 show a prevalence of excess weight of 18.30% among children and young people and a prevalence of 9.6% in terms of obesity, which means 27.6% have overall excess weight. This obesity starts in early childhood, between 0 and 3 years of age, when a diet is offered based on industrial products far from national and international recommendations for those ages.
- In the assessment of the latest Multisectorial Plan to combat infection with HIV/AIDS in Spain 2008-2012, it was evident, among other questions, that there had been an increase in exposure in terms of sexual behaviour among young people and a lack of standardization of the systems of information, care and prevention.
- There are administrative hurdles to be overcome in primary care health centres in terms of access, especially in the cases of children and pregnant women, and for long term treatments, vaccinations and appointments with specialists, above all for gypsies and immigrants.
- Lack of unification of the calendar of vaccinations on a national level, which would avoid situations of discrimination such as those which can arise from establishing a "cut-off date", from which point some children and adolescents may have the right to be vaccinated for free unlike those who were born before and whose parents must pay for the cost of the vaccination.



Recommendations

- Guaranteeing a public and universal health system with free access for everybody who lives in the country, regardless of their administrative and tax contribution status.
- Repeal of Royal Decree Law 16/2012, of 20 April, on urgent measures to guarantee the sustainability of the National Health System, and improve the quality and safety of its services, as well as eliminating pharmaceutical copayment.
- Creation of universal programmes of positive parenthood, which promote healthy lifestyles and upbringing of children through informational and awareness campaigns that include the participation of parents and legal guardians in all medical situations in which they need to accompany children and adolescents.
- Establishment of Specialized Pediatric Units, especially for specific pathologies, which can be coordinated.
- Establishment in hospitals, health services and, in particular, maternity wards, of the Initiative for the Humanization of Birth Assistance and Breastfeeding, launched by the World Health Organization and UNICEF.
- Compliance with the International Code of Marketing of Breast-Milk Substitutes.
- Creation of a form of support and specialized assistance for therapies and treatments in the field of mental health and other chronic illness for children and adolescents and their families.
- Establishment of a protocol for the diagnosis and treatment of ADHD, limiting the use of pharmaceuticals and including psychoeducational attention.
- Creation of secondary or selective prevention services for drug dependencies on a local level and an increase in the number of attention centres for all types of addictions.
- Promotion of training and awareness campaigns related to proper diets as well as better control of advertising in this field.
- Reinforcement of the prevention of HIV/AIDS among the most vulnerable groups, decreasing the incidence of infection due to this cause and other STDs, encouraging early diagnosis and continuous training of healthcare staff, and education with preventive actions, which would incorporate a gender perspective and be adapted in terms of age, cultural diversity and other specific questions, favouring participation.
- Review of the protocols and the legislation that make it difficult to respect the rights of children and adolescents with HIV/AIDS, promoting their categorization as a “transmissible disease” so that we can avoid possible discrimination due to the current categorization of the current categorization.
- Inclusion in school curricular projects of preventive actions on addictions and emotional and sexual health.
- Promotion of the development of the specialty of Child and Adolescent Psychiatry, training professionals in the field of mental health who will look after children and adolescents integrated in multidisciplinary teams equipped with sufficient human and material resources.
- Promotion of universal and stable vaccination programmes, regardless of the Autonomous Community in which children and adolescents live.



Welfare

Measures adopted as a response to the last observations made by the Committee on the Rights of the Child (2010)



- Incorporation in the 2nd National Strategic Plan on Childhood and Adolescence 2013-2016 (2nd NSPCA) of objectives on support for families (Objective 2) and protection and social inclusion (Objective 4). Nevertheless, as highlighted in other sections of this Report, this Plan has shown signs of weakness, a lack of effectiveness and budgetary and methodological commitment, making it more of a statement of good intentions rather than a useful instrument for policy planning.
- Moreover, the National Plan of Action for Social Inclusion in Spain 2013-2016 has also been presented as a key tool to combat poverty and exclusion in general and, in particular, the kind suffered by children, and child poverty was finally included as a transversal objective despite the fact that it was also simultaneously considered as a priority.



Changes both positive and negative that have taken place since the last report



- We have noted an improvement in some indicators, such as the decrease in the number of homes without any income on the final part of 2015 and the first months of 2016, and for the first time since 2013 this number was below 700,000 (693,000). The same thing happened with homes in which everybody is unemployed, which dropped to 8% from 10% in 2014; the rate of unemployment went down from 25% in the second quarter of 2014 to 20% in the same quarter in 2016; long-term unemployment has started to decrease and has gone from 62% in 2014 to 58% in 2016. Nevertheless, long-term unemployment has not undergone any great changes, which points to its stagnation and chronification.



- In Spain, child poverty is the poverty of families with children. The rate of social exclusion in homes in Spain is multiplied by 1.5 when in the families there is a child or teenager and by 2.5 when it is a large family. Spain is the third country in the European Union (EU) with most child poverty. Relative child poverty is 1.5 times greater than in the other EU27 (30% compared to 21%), whereas severe poverty is twice the rate of EU27 (16% compared to 8%). There are around 2.7 million



children and adolescents under 16 in Spain at risk of poverty or social exclusion (AROPE). In terms of age groups, the most vulnerable one is between 12 and 17 years of age. Nearly 4 out of every 10 young people between 12 y 17 are at risk of poverty or exclusion (37.6%).

- As for the situation of immigrants or the children of immigrants, according to the data from Eurostat, in 2014 the poverty rate among the children of parents born outside of Spain (minors who were under 18) reached 55%.
- These data show even worse results in the case of minors whose parents are not Spanish, as 59.3% of these children are below the poverty line compared to 24.7% of those whose parents have Spanish nationality.
- The gypsy population and those who are not from EU15 also have a much greater risk of social exclusion and the figures for their children and adolescents are 76.1% and 53.6% respectively, compared to 32% of other homes with minors.
- Although there may have been some reduction in the levels of unemployment, there are still a significant amount of people who seem to have been left out of this economic recovery: 700,000 homes have no income and there are more than 1.5 million homes in which everybody is unemployed. It should also be remembered that of nearly 4.6 million unemployed people, more than 2.6 million have been in that situation for more than a year.
- Moreover, there are population groups who have not seen any



In Spain, child poverty is the poverty of families with children

The rate of social exclusion in homes in Spain is multiplied by 1.5 when in the families there is a child or teenager and by 2.5 when it is a large family. Spain is the third country in the European Union with most child poverty



improvement: unemployment rates in homes have remained at around 16.2%. Those aged between 16 and 24 have suffered a notable increase in the unemployment rate, as well as the long-term unemployment rate, along with a decrease in their activity rate. All of these data show that the economic crisis is not the cause of all of the problems of our country, but rather the cause of some new ones and the extension of others that already existed, and 2 out of every 3 who are socially excluded were in that situation before the crisis.



Obstacles found in the carrying out of obligations required by the CRC

- In 2014, the poverty rate in homes without children and adolescents was 16%, whereas it was 28% in homes with children and adolescents, 42% in single parent families and 44% in large families. Therefore, the overall figure for social exclusion is 22%, which rises to 32% for families with children and adolescents, 47% for single parent families and 54% for large families.
- The current social and economic model perpetuates situations of poverty and exclusion, and is generating an inter-generational transfer of poverty in Spain - “poverty is inherited by children from their parents”-, and it is clear that having children in Spain is one of the most important risk factors of poverty. The gap in the poverty rate in Spain between homes with and without children and adolescents is three times higher than EU27.
- We start off from a welfare model that does not consider children and adolescents to be the holders of rights but rather a family burden, which makes it difficult for protection policies and interventions to have an overall and effective impact on childhood.
- Inequality has also increased on a regional level with enormous differences between Autonomous Communities: between 2008 and 2014, 13 of the 17 Autonomous Communities in Spain and 2 Autonomous Cities (Ceuta and Melilla) increased their levels of inequality, and there was a parallel increase in the differences between the North and the South. These regional differences in terms of poverty point to a divergence in recovery from the crisis.
- Housing policy has proved to be ineffective as it has not permitted access to standardized housing by people with very low income, and has thus encouraged the generation of “ghettos” with a high percentage of vulnerable people (particularly gypsies). This is made worse by the numerous evictions that have taken place over the last 6 years, which have left many families with children and adolescents without a home as a result of the bursting of the property bubble generated in previous years.
- The Report entitled “More alone than ever. Child poverty in single mother families”, published by Save the Children in 2015, highlighted the following points:
 - Law 1/2013, of 14 May, on measures to reinforce the protection of mortgagors, restructuring of debt and social rent, does not specifically and completely protect children, and discriminates against especially vulnerable minors, such as only children in single parent families (this type of family is only protected if they have two children or more).
 - Another serious problema associated with welfare and housing is the question of fuel poverty. The excessive burden of housing costs and the increase in energy supply costs have led to delays in mortgage and rent payments and also in the payment of electricity and water bills, as well as other expenses; and this has been even worse than in homes without dependent children (22.3% compared to 9.5%). Moreover, the increase has only happened in the case of the lowest income quintiles, whereas it has remained more or less stable for the rest. This means that many families do not use of all the energy supply that they need to live, and this leads to situations such as underheated homes. Some groups, such as single parent families, suffer this problem even more: 4 out of every 10 of these families do not have enough money to cover the running costs of their homes, and 37.8% cannot keep their home at the right temperature.
- These questions have led to citizen protests through different networks, among which we highlight those those promoted by the

In relation to both dimensions (evictions and children's rights), we can highlight the fact that **82%** of evictions are carried out in the presence of at least one minor, and many foreclosures are made with excessive police presence and force

Platform for People Affected by Mortgages (PAH in Spanish) and its regional organizations. Some points highlighted by PAH Madrid about this issue are:

- The latest data on foreclosures on a national level offered by the Bank of Spain on the 13th of November 2016 showed that, for the first quarter of 2014, there were nearly 6 million active mortgages for main residences i.e. those in which there is still a relationship between the bank and the person or family with the mortgage.
- Some 20,000 houses were handed over in the first quarter of 2016 i.e. 110 houses every day.
- In the case of the Community of Madrid, for the first quarter of 2014, and according to the data from the General Council of the Judiciary, there were nearly 4,000 (3,920) foreclosures, which is equivalent to 21 evictions every day, a slightly lower figure than that for the previous year 2013 (4,266).
- In relation to both dimensions (evictions and children's rights), we can highlight the fact that 82% of evictions are carried out in the presence of at least one minor, and many foreclosures are made with excessive police presence and force.
- In this respect, the Social Services and the State Prosecution Office are often only acting either partially or too late.
- In cases of evictions in the presence of children and adolescents with special needs, it should be remembered that the conditions for deferment considered in the aforementioned Law 1/2013, of 14 May, only refer to the disability of the person liable for the debt.
- Finally, a study carried out on 200 people during 2013 and 2014 by the Andalusian School of Public Health, in collaboration with the Faculty of Psychology of the University of Granada and the Anti Eviction Platform of Granada, showed that 92% of the people who are evicted suffer serious levels of depression and anxiety.
- For some dimensions, there is not enough knowledge of the real situation, which makes it difficult to establish public policies coherent with sufficient social investment which prioritizes children and families, and gives answers that not only solve the emergency but also have a vision for the future.
- The system has lost its universal nature and is heading towards a model of contingent aid, where there has been a reduction in services and social protection assistance and delays in the provision of services for people on low income.
- The different actions of public institutions aimed at families and affecting children and adolescents have no real, effective coordination or a multidimensional vision, and this leads to a lack of quality in intervention and the multiplication of efforts and resources.
- Public policy does not consider a process of real social inclusion by involving parents, or effective support for work-life balance and, when this is achieved, there is an economic and/or social cost.



Recommendations

- Ensuring the existence of an information system that allows for good knowledge which will lead to the designing of coherent political action that will plan services and assistance in an integrated and coordinated manner, without an obsession with short-term results. Therefore, it is necessary to generate protocols and unify criteria for data collection to enable coordination, assessment and improvement of the different interventions by public administrations and social organizations.
- Prioritization of the particular vulnerability of families with children by using preferential and urgent attention through social remuneration policies that focus on children and families, dealing with factors that may transmit poverty and social exclusion, all of which must be specially funded from the budgets of different public administrations.
- Recognition of children and adolescents as holders of rights and not as burdens for their families.
- Establishment of a system that would guarantee minimum income on a national level as an effective measure to fight against poverty in general and, particularly, against severe poverty, which affects 11.2% of the population, in which we find most of the homes with children and adolescents.
- Promotion of social protection policies for childhood, which put children at the centre of the process and are aimed at compensating inequalities and situations of vulnerability. The assistance provided for each dependent child should be made universal and reach 100 € per month. Until this is achieved, there





should be an increase in the number of families benefitted and should reach all children living in poverty, increasing the amount provided with additional allowances for single parent families and complementary assistance for the most vulnerable families.

- Design of a process of social inclusion through the involvement of parents, with effective support for a work-life balance in which participation in the labour market does not mean any economic penalization in terms of the financial help that families receive. Both compatibility and complementarity must be ensured, constructing a system that is more solid and less exposed to the temporary nature of professional success. This involvement must be based on a decent job which pays the minimum wage, which should be reviewed in line with inflation.
- Regarding housing policy:
 - Promotion of legislative reforms, based on a national pact and with specific plans that consider the social function of housing, which is essential for children and adolescents and their families, not only a moment of serious housing urgency, but also in a permanent and structural manner. The new regulation must take into account the basic function of a house, and differentiate between the main family residence and other uses (professional, commercial, etc.), particularly in relation to cases where people are deprived of their houses e.g. evictions. Moreover, the national pact and the specific pacts must consider procedures and tools that enable people to access and keep a house, particularly in the case of the most vulnerable people and in situations of exclusion related to housing (evictions, leaving hospitals or prisons, etc.) and when dealing with different scenarios (private renting, social renting, etc.).
 - Development of housing policies for renting (new and renovated properties) which will be directly promoted and aimed at families with children and adolescents.
 - Actions in the field of public housing and/or renovation of

neighbourhoods (particularly substandard housing), must include investment in the city and the spaces that already exist, as well as promotion of use of public and alternative transport. This will generate urban environments without “ghettos” and the tendency to reproduce poverty, and children and adolescents and their families can create their lives as part of a community.

- Erradication of shanty towns, a commitment included in the National Strategy for the Social Inclusion of the Gypsy Population in Spain 2012-2020.
- Other specific contributions can be based on the findings of the Report entitled “You will stay in the dark. Evictions, families and childhood from the perspective of rights”, published by Enclave de Evaluación, PAH Madrid and Qiteria in 2016:
 - » We must recognize the social and family circumstances of all the people affected by an eviction as an obligatory element of judicial assessment in all legal procedures. In cases of evictions, the perspective of children and adolescents, who are the most vulnerable in these situations, must be recognized in the process and they must be allowed to intervene as much as is reasonably possible. The legal authorization of an eviction cannot be made without taking into account the best interest of children and adolescents as a legal principle that should take precedence over the right of financial institutions or individuals to collect debts.
 - » Public institutions, particularly the General Council of the Judiciary, should include in their annual reports data and assessments about the impact of evictions on families with children and adolescents.





8

Education, leisure and cultural activities



Measures adopted as a response to the last observations made by the Committee on the Rights of the Child (2010)



- The passing of Organic Law 8/2013, of 9 December, for the improvement of educational quality (LOMCE in Spanish) meant a substantial modification of Organic Law 2/2006, of 3 May, on Education. Some of the questions that have been modified raise worrying issues that make it difficult for children and adolescents to exercise their rights.
- Furthermore, the Committee requested the utmost respect for the rights of children to participate in school life from Primary School onwards and, even though the 2nd National Strategic Plan on Childhood and Adolescence 2013-2016 (2nd NSPCA) considers the need to promote child participation processes from Primary School (devoting its Objective 6 to guaranteeing quality education whereas Objective 8 focuses on promoting child participation and encouraging safe environments), the LOMCE has not introduced substantial modifications in this respect, and students can still be chosen from Obligatory Secondary School (ESO in Spain) onwards.
- The Report on “Child Welfare from the Point of View of Children”, published by the UNICEF Spanish Committee in 2012, warned about

the relatively low levels of participation perceived by children and adolescents and their dissatisfaction about this. The aforementioned Law restricts participation even more: the modifications of Articles 119 and 127 included in the LOMCE limit the scope and quality of participation. The participation of the educational community is limited to the control and management of schools and does not take into account their governance, functioning and assessment. School Councils, which offer the possibility of participation to pupils, have suffered a reduction in their decision-making capacity, especially in terms of the approval of Laws, rules and general annual programming, admission of pupils and the guidelines for collaboration with Local Administrations and others.

- The previous point has been worsened by the modification of Article 124 on the rules of organization, functioning and coexistence, which states in its third paragraph: “The members of the school management team and the teaching staff will be considered to be a public authority. In procedures to adopt corrective measures, the facts presented by teaching staff and members of the school management team (...) will be considered to have evidential value and will be considered to be true (...), notwithstanding the evidence (...) that pupils can (...) present.” This means that, in cases of conflict or disagreements, and without any proof that can change the direction of the evidence, the version of the teacher or member of the school management team will have more value and influence and be considered the truth.
- The subject entitled “Education for Citizens” has disappeared and has been substituted by optional subjects on civil values or ethical values.

Finally, the 5th and 6th Report by Spain on the Implementation of the United Nations (UN) Convention on the Rights of the Child (CRC) and its Optional Protocols (OP) do not deal with children’s right to rest, leisure, play, recreational activities, cultural life and the arts (Article 31 of the Convention).



Changes both positive and negative that have taken place since the last report



- There has been a decrease, which has been continuous since 2008, in the percentage of early school leavers, which is around 20% according to the data for 2015, although most experts agree that is mainly due to the difficulty of finding a job in the context of the economic crisis.
- Positive progression in other indicators, such as starting school early (near to 100% between 3 and 5 years of age) or the percentage of university graduates, which is above the European objective of 40% and is nearer to the national objective of 44% in 2020, in line with the European 2020 Strategy.



- Some chronic problems persist, such as early school leaving, which was at 23.5% in Spain in 2013, 11.9% in the EU 27, and far from the European objectives on early school leaving for 2020 (10% for the EU and 15% for Spain, European Commission, 2013).



- Early school leaving hides other inequalities:
 - » The gender gap has been reduced, but this problem still affects men (24% in 2015) more than women (15.8% en 2015).
 - » Territorial dimension: the differences are also very profound: 29.8% of early school leavers in Ceuta compared to 9.6% in the Basque Country.
 - » Gypsy population -nearly 64% of gypsy pupils do not finish their obligatory period of education (“Gypsy pupils in Secondary schools: a comparative study”, 2013, Gypsy Secretariat Foundation, UNICEF Spanish Committee, Ministry of Education, Culture and Sport)- and foreign pupils are also more affected.
 - » The measures to reduce this problema are concentrated in Secondary Education, although their roots are also to be found in Primary Education, and there are clear indicators such as repeating a school year which hardly varies from one educational stage to another (from 2007 to 2013).
 - » There is some concern about the flexibilization of academic options in Secondary Education (grouping in terms of performance levels) introduced by the LOMCE, as it may increase segregation. This reinforces the segregation which already exists between schools depending on who runs them: according to Enguita (2016), state schools are attended by 78% of the children of parents with basic studies, but only 47% of those who have higher education qualifications; 84% of those who live in families with a low or low-to-medium socio-economic status attend state schools, compared to only 40% of those with a high status. State schools are attended by 85% of immigrant children and at Nursery and Primary level and 79% at Secondary level.



- Pupils with a lower economic and cultural level tend to dominate the group of those who drop out of Education, and a higher probability of not attending school regularly or doing in more unstable conditions, which does not only affect their academic performance but also their personal development and expectations in life. Moreover, of the total of young people who left the education system without taking any post-obligatory studies, those from the lowest quintile of income went from 28% in 2008 to 36% in 2015. Socio-economic origin also affects the question of repeating a school year: among pupils with the same points on the PISA (Programme for International Student Assessment) scale, those from a low socio-economic background are four times more likely to have repeated a school year than those from a high level. Indeed, according to PISA, the impact of socio-economic background on educational results increased in Spain by 24% from 2003 to 2012; today, 68% of the 40% of poorest people leave school early (Report “The need to improve”, Save the Children, 2016).
- The cost of early school leaving in Spain ranged from 5.9% to 10.7% of Gross domestic product (GDP).
- At the end of the period of ESO, there is a distinction between those pupils who receive a diploma that allows them to move on to the post-obligatory stage of education, and those who receive a certificate, that closes the door on any chance of higher education and/or entering the labour market. This mainly affects pupils for whom the curriculum has been adapted.
- Basic Professional Training: this is currently not a valid

alternative to ESO so that children and adolescents can continue in the system, and therefore they opt to wait for the School for Adults. Moreover, it does not have much social prestige.

- Inclusive education: the LOMCE has proved to be insufficient, and there is still a lack of fairness and equal opportunities.
- We can observe segregation between state schools and privately-owned but state-funded schools through the establishment of fees for families or points criteria, or concepts which go against fairness such as awarding points for former pupils or the discretionary point decided by schools (Report “The need to improve”, Save the Children, 2016).
- On the other hand, the LOMCE has reopened the political debate about:
 - a. The educational independence of Autonomous Communities.
 - b. Redistribution of educational responsibilities between Public Administrations, so that Autonomous Communities take over the responsibilities of municipalities.
 - c. Introduction of greater control by the Central Administration of the curriculum.
 - d. The regulation of the use of Castilian and the co-official languages of some Autonomous Communities in the educational community.

The attempts to make reforms without the consent of parents, the educational community and Public Administrations has only added instability to the system



- The attempts to make reforms without the consent of parents, the educational community and Public Administrations has only added instability to the system.
- The educational model is considered to be decentralized, “regionalized” and internally heterogeneous, with a predominance of uniform integration, based on rigid curricular patterns and the systematic use of repetition.
- Decrease in the number of beneficiaries of scholarships and study grants: between 2010 and 2011, the number of scholarships and grants to buy books and educational material in Obligatory, Nursery and Special Education was 925,080, whereas from 2013 to 2014 only 63,501 grants were awarded. Additionally, the Royal Decrees 1000/2012, of 29 June, and 609/2013, of 2 August, which establish the thresholds for family income and assets and the amount of the scholarships and study grants, have tried to establish a more “efficient” system to award these scholarships and grants according to new criteria which give more weight to pupils’ academic records than to a possible situation of vulnerability and exclusion
- Violence:
 - Despite the lack of systematic data collection by Public Administrations and the lack of common criteria about what violence is which makes it difficult to analyze tendencies, it is clear that it is a widespread and transversal phenomenon, no matter what type of school is involved (Díaz Aguado, M.J. Et al.: 2013; Andrés S. and Neighbourhoods A.: 2009). Children and adolescents state that is the second place where they feel most unsafe (Educo: 2016). Although some advances have been

made in legislative and political terms, these have not been accompanied by systematic support in their implementation by Public Administrations (Uruñuela, 2012; 2014 Report on the State of Education; María Isabel Viana Orta, 2011 and 2012; Andrés S. and Neighbourhoods A., 2009), for example, in the permanent training of teachers (María Rubio Sáiz, 2013; Penalva, A. et al, 2014) and the deficit of participation by pupils in the management of coexistence. The atmosphere of fair treatment that should characterize a school is sought through coexistence plans, but these lack the necessary assistance for their proper implementation, are usually not participative and to achieve internationally comparable results tends to relegate to second place questions such as human rights, emotional education, cooperation and conflict resolution.

- Bullying and cyberbullying are both very worrying aspects of the current education system in Spain, with some especially dramatic cases over the last few years, and the response to the problem from Public Administrations has not been decisive or efficient. In the Report published by Save the Children and entitled “I don’t play that. Bullying and cyberbullying in childhood” (2016), the results of a representative survey of children between 12 and 16 all over Spain showed that 9.3% of the pupils surveyed believe that they had suffered traditional bullying over the previous two months. 6.9% considered themselves victims of cyberbullying. As this was a representative survey, it can be extrapolated to the rest of the population, and the result was the number of pupils from state schools who have suffered both types of bullying: 111,000 and 82,000 children, respectively.
- Article 31: The right to rest, leisure, play, recreational activities,



cultural life and the arts:

- The lack of investments continues, with very few free leisure activities for children, which worsens the situation of low income families.
- For example, the differences in participation in sporting and non-sporting extracurricular activities between the best and worst positioned occupational groups is more than 30% in the case of Catalonia (Catalonia Health Survey, Sindic de Greuges, 2015). This trend was corroborated by the Bulletin on Social Vulnerability in Childhood published by the Spanish Red Cross (2016), which showed that 43% of children and adolescents between 12 and 14 that were assisted by this organization did not do any extracurricular activities. This percentage decreased to 36% in the case of children between 8 and 11.
- The participation of children in cultural activities is very uneven, and there are some Autonomous Communities that do not have any legislation about this question, and some of them (such as Murcia and Asturias) limit this to local experiences and others (such as Catalonia) do have tools to encourage children's participation.



New areas of concern

- Cuts and disinvestment:
 - The quasi-privatization of the system is aimed at freedom of choice, autonomy for schools and the culture of economic performance. Our percentage of pupils registered state-funded private schools in the obligatory period of education (28%) is one of the highest compared with the Organization for Economic Co-operation and Development (OECD) average (8%).
 - The Royal Decree-Law 14/2012, of 20 April, on urgent measures for the rationalization of public spending in the educational sphere, has accelerated the deterioration in investment, beyond certain data that might suggest the opposite (public spending per student in state-funded education is higher than the rate of the OECD or the EU, partly grantuse there is a lower proportion of children and adolescents between 5 and 19 years of age).
 - Public spending on education has suffered severe cuts since 2009. The report by Comisiones Obreras (CC. OO.) "Cartography of the cuts: public spending in Spain between 2009 and 2014", published in 2016, showed a 15% reduction in nominal values and a 24% reduction in real values proportionally, which mainly affects salaries, investment and current expenditure. Furthermore, the report by the BBVA Foundation and the Valencian Institute of Economic Research entitled "Education accounts in Spain 2000-2013" confirmed this 15% reduction, and added that the spending made by families on education has increased by 28.2% over the same period. In this same period, the percentage of spending on education in relation to GDP dropped from 5.07% in



2009 to 4% in 2013. The objective of austerity set by Central Government estimates that this percentage will be 3.7% by 2018. Therefore, the accumulated cut in education would be 23%, according to the report “Challenges for education in Catalonia. Year 2015” (2016), Jaume Bofill Foundation.

- Some consequences of these cuts include the loss of permanent jobs in the public sector and increase in temporary contracts in this sector, with a high level of job rotation and a loss of educational quality. Between 2009 and 2010 and 2013 and 2014, pupils in state schools increased by 7.09% and the number of teachers decreased by 2.91% (Report “The need to improve”, Save the Children, 2016). The aforementioned Royal Decree Law 14/2012 allowed Educational Administrations to increase by up to 20% the maximum number of pupils per class. This was maintained in the General State Budget for 2016, which introduced a budget for 100% teacher replacement, although the ratios are still high. If we add to the impact of these cuts the fact that, according to the report by CC.OO, state-funded private education, has practically the same resources as in 2009, we can state that the most disadvantaged members of society will suffer the worst consequences of the policies adopted.
- The cuts have had a very serious impact on attention to student diversity: according to the Research Unit of the Teaching Federation of CC.OO., in 2015 according to the data collected for the period 2009-2012, the educational budget for attention to student diversity had decreased by 51% in the Central Administration, 9% in Autonomous Communities and 6% in Town Councils.
- Educational ghettos: it is worrying to observe how these are being generated in state schools, as there are fewer places

available at state-funded private schools. This does not only affect schools, but also neighbourhoods, where there are fewer and fewer spaces allocated for children and adolescents, grantuse extracurricular activities tend to take place on school premises on and for a fee.

- Fulfilment of rights in Early Childhood (0-6 years of age):
 - Education from 0 to 3 years of age: there are not enough public places to meet needs. Their price is too high for many families and the criteria to award places is often unfair as it not accessible to everybody in the same conditions. Although we know about the importance and the impact of this stage of education on the development of children, access to this stage is concentrated in the highest quintiles. Only 3 out of every 10 children are registered, and the average anual cost per family is 1,774 euros. The gap in the Nursery schooling of children at this age between the highest income quintile and the lowest was 25 points in 2015 (Report “The need to improve”, Save the Children, 2016).
 - Education from 3 to 6 years of age: as this is not part of the Obligatory Education system, there is no type of economic help to buy books or other materials. Of the children registered in 2015, 31% belonged to the lowest quintile and 56% the highest quintile.
- Education, poverty and inequality:
 - Education is a transmitter of vulnerability, poverty and exclusion, and the possibilities of being at risk of poverty decrease as the educational level of parents increases:



- » In 2014, the risk of poverty for those children and adolescents whose parents had higher education qualifications was 11.7%, and increased to 56% for those whose parents had a Primary School education or had not completed any educational stage.
 - » Pupils from families with basic studies have 5 times more possibilities of leaving school early, according to the annual report made by the National Institute of Educational Assessment on Indicators in Education in 2016.
 - » 8 out of 10 people whose parents did not reach Primary Education did not finish Secondary Education. Therefore, the educational system not only fails to avoid educational inequalities but also often acts as an inter-generational reproducer of this problem.
- Many children and adolescents in situations of vulnerability or exclusion, as they do not have any incentive or support, leave school at the beginning of ESO or in previous years, and thus we can find a group of children and adolescents between 12 and 16 to whom it is not possible to offer any standardized resource: they cannot be offered any educational or labour resource until they finish obligatory schooling and they are left by the wayside in the transition from Primary to Secondary school. Additionally, many children and adolescents who are obliged to stay in the system have negative attitudes and, therefore, repressive models are established. The Administration only acts when serious crimes are committed and, if not, it usually remains passive. Prevention is key.
 - There is an increasing request for collaboration by parents at schools, but the parents of some families that are poor and/or in a situation of exclusion do not have the right tools to provide that support.
 - Exams and assessments: the tendency to evaluate results through exams and assessments, based on knowledge competences, leads to schools that are less flexible in terms of differences and a prevalent adaptation pupils “standardized” for the system. The exams may be complementary but not decisive, as assessing the system through PISA or another such system as the use of a single ‘thermometre’ may lead to erroneous conclusions. In fact, these standardized assessments do not deal with student diversity.
 - Too much homework: more and more studies are casting doubts on their usefulness. Different associations have stated that, although there are some regulations about homework, the importance of rest and play, there is still too much homework being given which makes family relationships more difficult, limits free time and reduces time for rest. In fact, the question is being studied by the Office of the Spanish Ombudsman. Moreover, homework discriminates against poorer children and adolescents, without generating better results (as can be seen in the PISA Report) or improve learning or study habits, as some people believe. The Survey by the World Health Organization (WHO) on the conditions of school-age children and adolescents has warned about the pressure that homework causes for Spanish pupils.
 - Pedagogical methodologies: innovation is isolated and priority is given to authoritarian methodologies rather than participative and cooperative ones, which are more typical of private schools. Furthermore, not enough work is done on Emotional Education.



Obstacles found in the carrying out of obligations required by the CRC

- The educational system does not create the conditions necessary to achieve equal opportunities.
 - Segregation of the system through its quasi-privatization, focusing on freedom of choice, autonomy of school and the culture of economic performance.
 - Regarding grants, the Report “The need to improve”, published by Save the Children in 2016, revealed the following points:
 - The system of grants in Spain has a very low redistributive impact and, far from improving access and educational continuity for the most vulnerable pupils, it does not prevent low levels of achievement and early school leaving.
 - According to a 2013 study on the progressive nature of public investment on Health and Education in Spain, investment on grants, on university education and state-funded private schools is clearly regressive i.e. the richest part of the population benefits more from a greater part of public spending. On the other hand, the funding devoted to Primary and Secondary schools has a progressive nature.
 - There are reasons why grants in Spain are not very progressive. Firstly, the grants aimed at university studies clearly favour middle-class and upper-class students, who are the main group at this level. However, there are a series of requirements to obtain these grants which penalize poorer students in Obligatory Education. Thus, since 1983 it is necessary to have Spanish nationality to grant from the Ministry of Education, Culture and Sport, a requirement that has not changed with the different reforms in the grants system, despite the increase in the foreign population and the incidence of poverty among these children.
- According to the data from the National Institute of Statistics, 53.3% of children whose parents do not have Spanish nationality are poor. Since 1996, the foreign population has gone from 1.4% to 10% of the population in 2015. Secondly, those who have repeated the previous school year are excluded.
- Incapacity of schools to achieve integration:
 - Immigrant population: these pupils generally arrive with gaps in their knowledge in terms of the curriculum, which makes adaptation more expensive and time-consuming and schools are not ready for this.
 - Children with disabilities and adolescents: there is no real programme of assistance and no guarantee of inclusive education, and therefore they may be sent to Special Education Centres. Children with disabilities experience segregation in a very particular way because, when they are not offered an education with the rest of the pupils, they are separated and sent to Special Education Centres. The Convention on the Rights of People with Disabilities prohibits this practice, which prevents these children from being educated in equal conditions with their classmates and obtaining the corresponding qualifications. These pupils are over-represented in state schools: 80% of pupils with Special Educational Needs integrated in ordinary schools study at a state school. Furthermore, admission is subject to academic performance, and pupils cannot access professional qualification programmes from Special Education.
 - Basic Professional Training: currently adolescents without a diploma from Secondary Education cannot access these programmes unless they have a positive report from the student counselor of their school, a possibility which was included in previous regulations and should be offered again.
 - There is a worrying lack of prestige attached to teaching staff and the educational community, which contributes to their demotivation



and delegitimization. Furthermore, teachers are subject to frequent changes of schools and groups, which does not allow them to work in a stable environment. There are not enough teachers and insufficient counselling and support services, with teacher-pupil ratios that are too high (23 pupils per class), which makes it difficult to provide personalized attention. Teachers also sometimes do not have the training to deal with some situations, such as pupils with special needs.

- Barriers have been added to the already scarce chances that children and adolescents have to participate in schools.
- Article 31: The right to rest, leisure, play, recreational activities, cultural life and the arts:
 - Lack of recognition of the importance of play and leisure.
 - Absence of reliable, accessible and periodical data on this question, making non-formal education invisible. Although we know the number of associations and organizations, since they have to be legally registered, there are not enough data on the number of participants, activities or the contents that they work on.
 - There are not enough homogeneous control mechanisms for the actions that are developed.
 - Lack of investment.

- Resistance to the use of public space by children and adolescents. There has been a worrying increase in the number of signs that prohibit children from playing in public spaces and in the common spaces of private residential areas.
- Sometimes, the environments are unhealthy and dangerous and some facilities -parks and gardens- have become deteriorated by insufficient or non-existent maintenance.
- Progressive institutionalization of public spaces and resources, where children played naturally before and now playing is excessively regulated or prohibited.
- Lack of access to nature, which Tertiary Sector organizations and NGOs try to provide but without enough support.
- Complete neglect of Article 31 in Cooperation and Official Development Assistance (ODA) programmes.
- Access to educational free time, where this is available, is uneven and there are differences in terms of age groups, timetables and admission criteria.
- Leisure activities (especially in the case of schools, where they are concentrated) tend to be offered for a fee. Vulnerable families are hardly able to devote any money to these activities. At the same time, children and adolescents spend more and more time in shopping centres.
- Non-commercial, educational leisure in children's free time is often limited to that provided by NGOs, who have limited resources to meet the demand that exists. There are situations in which some spaces such as schools are not made available to these organizations, thus contradicting the regulations which propose that they should not be underused.
- There is no real differentiated assistance in the case of the exercise of their rights by children and adolescents from minority groups.
- The aforementioned demands for academic success and homework, along with highly structured timetables, are detrimental to Article 31. Children and adolescents point out that they spend less time with the people they love most: their parents, their family.



Recommendations

- Signing of a National Pact on Educational Fairness that would breach the current educational gap, so that the system offers the right conditions to achieve equal opportunities.
 - Repeal of the LOMCE.
 - Review of the inequalities that exist between Autonomous Communities, derived among other reasons from their socio-economic differences and reflected in the levels of privatization of schools, results, investment and pupil-teacher ratios, trying to palliate this disparity in terms of rights.
 - Truly free education, and defence of Obligatory Education from 6 to 16 years of age:
 - Passing of a Law on the Funding of Education.
 - Progressive increase in public spending on Education until it reaches the OECD average and at least 7% of GDP, in a maximum period of one legislature, then protection of this spending by Law to avoid future constraints.
 - Increase in public spending on scholarships and study grants from the current 0.11% of GDP to 0.4% of GDP in 2020, increasing its progressive nature through (among other things):
 - » Elimination of the requirements that punish vulnerable social groups (whether they have Spanish nationality or not).
 - » Increase of the funds available for grants in second opportunity programmes, Education from 0 to 3 years of age, and medium levels of Professional Training.
 - » Simplification of the design of the procedures to request grants, avoiding tedious and complex processes that essentially exclude families with a lower level of education.
- Inclusive attention to student diversity, in which the system adapts its structures to children and adolescents, not the other way around**
- Reinforcement of an inclusive approach and of the quality of the system with universal benefits aimed at families and children. Specific help must be given to vulnerable groups in the fight against poverty and exclusion, such as a universal subsidy for each dependent child and the defence of inclusive and accessible public services.
 - Promotion of measures in more complex schools such as an emergency plan, specialized teaching staff, pedagogical support and lower pupil-teacher ratios. Elimination of the points-based system set by Autonomous Communities for admission in state-funded schools, guaranteeing truly free education and setting maximum amounts that can be paid by families for complementary activities in state and state-funded private schools.
 - Review of the system of the free choice of school to avoid segregation and an increase in inequalities.
 - Greater educational and specialization resources for teachers and the professionals who support them such as street educators, social workers, psychologists, special needs teachers and speech therapists.
 - Early childhood:
 - 0-3 years of age: it is necessary to take measures in relation to this educational period:
 - » Creation of an access plan for public Nursery Education, increasing schooling rates from 0 to 3 years of age until we

reach a minimum of 33%, in all Autonomous Communities in 2020, thus responding to the European objective.

- » Guaranteeing access for the most disadvantaged members of society to the first stage of Nursery Education through:

- i. Grants and social pricing.
- ii. Prioritizing fairness in the entrance criteria, which would lead, among other things, to giving more points to single-parent families or family income.
- iii. Transfer of regulation of the conditions for accessing first stage Nursery Education from a local to a regional level.

- 3-6 years of age: promotion of a system of guaranteed grants for vulnerable groups.
- Enabling all those who finish ESO to receive the same certificate, which would allow them to continue their formal education and/or enter the labour market.
- Greater flexibility of the educational model by promoting alternatives for students who are tired of the system, offering them options to continue such as Basic Professional Training, evolving from the current model to another one characterized by assistance and personalization.
- Inclusive attention to student diversity, in which the system adapts its structures to children and adolescents, not the other way around. Prevention is key, since it allows the early detection of learning difficulties. In the case of children with disabilities and adolescents, the following ideas are proposed:
 - Guaranteeing an inclusive model with real and effective support, eliminating any type of segregated or special schooling, paying particular attention at the beginning to the principle of standardization, thus providing the inclusive education enshrined

in the CRC and the Convention on the Rights of Persons with Disabilities.

- In line with the previous point, planned conversion of Special Education schools into Inclusive ones. The lack of resources means the failure of early educational attention, which leads to children being sent to Special Education schools, as well as an educational inclusion without the proper resources, which in turn leads to isolation.
- Respecting reasonable cuts, as if they are not made this will jeopardize the right to Education.
- There must be an assessment of schools which checks their degree of accessibility.
- The schooling process must be an essential part of the right to inclusive education.
- Existence of regulation that will guarantee the right to extracurricular activities.
- Reduction of differences in pupil-teacher ratios between rural and urban areas.
- Prevention of violence in schools: implementation of programmes and positions related to school mediation, which can contribute solving conflicts and give visibility to this problem, at the same time as they help their prevention, in all spheres of the lives of children and adolescents.





- Promotion of Education constructed as a collective project, with the participation of children and adolescents, young people, families, personal educators, managers and local communities.
- Facilitating the participation of children and adolescents in School Councils from Primary Education onwards, recovering and increasing their functions and responsibilities.
- Introduction of changes in the pedagogical model:
 - Review of the amount of homework set to keep some time for play and rest, and recognizing the excess of homework as a problem that creates discrimination and a social gap.
 - Monitoring the same curriculum in obligatory schooling, postponing differentiated itineraries until post-obligatory stages with flexible methodologies, collaborative projects and curricular and pedagogical designs based on diversity.
 - Elimination on the practice of repeating a school year and final certification exams called 'reválidas'.
- Reintroduction of the subject "Education for Citizenship", ensuring specific culture in terms of education about values, human rights and life skills.
- Providing incentives and motivation for the educational community by proposing:
 - An increase in the number of teachers, offering them job security, at the same time as a reduction in pupil-teacher ratios in classrooms, from the current figure of 23 to 15.
 - Guaranteeing their permanent and specialized training.
 - Ensuring diversification of profiles, including those aimed at psycho-educational attention for children and adolescents and their different environments, such as the family.
 - Promotion of specific training for the implementation of coexistence plans.
- Article 31: The right to rest, leisure, play, recreational activities, cultural life and the arts:
 - Recognition of non-school spaces as educational ones.
 - Insistence on the need to advance in the achievement of a work-life balance.
 - Establishment of integrated action plans for free time, outside of schools, and involving pupils, that will contribute to their overall development and allow them to revitalize their neighbourhoods.
 - Particular improvement of the access to extracurricular activities for children living in poverty and exclusion, trying to make them free for all children and adolescents.
 - Creation of accesible and adapted spaces for all children and adolescents.
 - Taking into account children's right to play in terms of urban planning.
 - Ensuring the cultural rights of children and adolescents from minority groups, particularly strengthening the work done with gypsy boys and, above all, gypsy girls, to try to integrate them as much as possible, working in an integrated and integrating way with all children and adolescents.
 - Support for NGOs that work in relation to play for children, particularly in terms of leisure and free time, ensuring that they can use spaces such as schools outside of normal teaching hours.



9

Special protection measures



Children and adolescents who are refugees or asylum seekers, children and adolescents who are not accompanied and children and adolescents who are victims of sexual abuse, exploitation or human trafficking

Measures adopted as a response to the last observations made by the Committee on the Rights of the Child (2010)

- The Regulation of Organic Law 4/2000, of 11 January, on the rights and freedom of foreigners in Spain and their social integration, approved by Royal Decree 557/2011, of 20 April, after its reform by Organic Law 2/2009, has meant an improvement in, among other questions, the regulation of the Register of Unaccompanied Foreign Minors (UFM).
- In fulfilment of the provision made in Article 190.2 of the aforementioned regulation of foreign immigrants, on the 16th of October 2014 a Framework Protocol was published in the Official State Gazette (BOE in Spanish) on determined actions in relation to Unaccompanied Foreign Minors, aimed at improving the coordination of all the administrations and institutions affected.
- The Spanish Parliament passed Organic Law 4/2015, of 30 March, on the protection of public safety, which among other measures gave a formal expression -as it is already happening- to collective rejections at the border (commonly known as “immediate deportations”). This way of acting makes it difficult to check whether or not the international commitments on migrant children and adolescents are being respected, as it cannot be determined

whether or not among those “rejected” there are any children and adolescents who might even be asylum seekers.

- In the context of the protection of children, we can point out the passing of Law 26/2015, of 28 July, on the modification of the system of protection of childhood and adolescence, which has brought a new vision of this system of protection which is closer to the ideas of the Convention on the Rights of the Child (CRC). Regarding protection of children and adolescents from sexual exploitation, we can highlight the increase in the age of sexual consent from 13 to 16, and the legal requirement to present a negative certification from the Central Register of Sex Offenders in order to be able to work in close contact with minors.





Changes both positive and negative that have taken place since the last report



- Register of UFM: the data on UFM are still not reliable given the lack of coordination between the State and the Autonomous Communities (sometimes even between different departments in the same Autonomous Community), the limitation of access to a single operator, the existence of mistakes when filling in the different parts of the Register and the non-inscription of UFM stopped by the Police.
- Framework Protocol on determined actions in relation to Unaccompanied Foreign Minors:
 - This protocol differs from the theories of the Spanish Supreme Court and, therefore, it is especially problematic in terms of the identification of migrant children and adolescents, and we can highlight the following main weaknesses:
 - » It starts from the principle of casting doubt on the documentation shown by the minors.
 - » The tests to determine a person's age are still not very reliable and have a considerable margin of error.
 - » There are no guarantees that, once this identification is made, the real circumstances of these children and adolescents will be analyzed and an effective, personalized plan of action designed.
 - » From the point of view of the rights of UFM, age testing can be carried out without the presence of a lawyer,



without previously informing them about the procedure and its consequences before they give their consent and, specifically, about the possibility of refusing to do the test and the consequences of this.

- On many occasions, the contents of regional protocols are an improvement on the national one.
- Law 26/2015, of 28 July, on the modification of the system of protection of childhood and adolescence:
 - It has not been made obligatory to use pre-constituted evidence in cases in which children and adolescents have been victims (which is know to avoid secondary victimization caused by making them repeat their evidence in a trial).
 - Even though Law 26/2015 generally means a positive legislative change, it is true that in practice Public Administrations still do not always notice the helpless situation of some children and adolescents and do not automatically accept their legal guardianship or take too long to take this decision.
 - One especially negative is the stipulation in Article 172.5.c) of the Civil Code including the wording of Law 26/2015, which states that administrative guardianship will cease 6 months after children and adolescents voluntarily leave the protection centre and their whereabouts are unknown, a question that was already mentioned in Section 6 of this document.
 - The same thing happens in the processing of residence and work permits for UFM, which normally takes up all of the established 9 month time limit. What often happens is



that these children and adolescents turn 18 years of age and they legally become adults without regularizing their administrative situation or, despite having been under legal guardianship, they lack any kind of assistance or support once they reach this age.

- Some UFM who reach adulthood without any resources end up surviving through prostitution.
- In practice, there is an alarming lack of data about children and adolescents who are victims of exploitation, sexual abuse and human trafficking.
- Children and adolescents who are victims of human trafficking:
 - The identification of cases of this problem has not improved over the last few years, and there are no specific centre to help and protect victims, which often means that they disappear shortly after entering ordinary protection centres.
 - The response to this problem is usually the declaration of the abandonment of the child but it ideally what should be declared is a risk.
 - An even greater problem can be found in the case of the children of adolescents who are victims of human trafficking, particularly in terms of their identification, both when biological motherhood can be determined and when this is not the case, as public guardianship of the child is automatically declared and this leads to the child's separation from the mother who is in turn a victim of human trafficking.
- Regarding the situation of children and adolescents who are refugees from Syria, Afghanistan or other countries, this is

Register of UFM: the data on UFM are still not reliable given the lack of coordination between the State and the Autonomous Communities

considered to be badly managed both by the European Union (EU) authorities and the Spanish Government:

- In asylum procedures they are not being listened to and their needs are not being taken into account.
- Both borders and Detention Centres for Foreigners and Temporary Centres for Immigrants (CETIS) are not adapted to their needs.
- Moreover, Public Administrations do not have any real plans for integration, nor are they fulfilling their commitment to relocate and resettle them, and family reunifications are taking a long time (sometimes even years).
- In the case of the Autonomous City of Melilla, this does not have the proper conditions or sufficient resources to receive the UFM who arrive there, as the only centre they have there is overcrowded and does not have sufficient means, which leads to minors wandering the streets of the city hoping to cross over to the Spanish mainland, which creates a situation of great vulnerability.



Obstacles found in the carrying out of obligations required by the CRC

- The main obstacle for a proper policy on immigration and assistance for children and adolescents who are migrants, refugees and asylum seekers stems from the fact that the government gives more importance to those questions than to the fact that they are minors, and there is no real will to facilitate their integration in Spanish society, which ultimately leads to the violation of their rights in numerous fields.
- Some authorities are still asking themselves whether or not UFM are subject to protection as minors in the Spanish system of protection at the same time as the international one, when the law includes their right to dual protection which does not exclude them from either system.
- In the case of UFM, there are also still some delays, as has been mentioned, in applications for and awarding of residence permits, which means they can turn 18 years of age without having proper documentation, which means using emergency residence permits that would not be necessary otherwise. Furthermore, there is no recognition of how long they have been resident starting from the moment in which they were declared abandoned, which causes problems for them in terms of renewing permits or obtaining a long-term residence permit.
- Centres for foreign minors also suffer from insufficient protection and overcrowding, as mentioned previously, as well as constant staff changes, which just adds instability to their work.
- Some other additional problems include the lack of a proper system of data collection, the insufficient training of professionals (both the Police and other public employees and ancillary staff) and the



lack of coordination between the administrations involved, among other issues. The last problem mentioned stops the good practices developed by some Autonomous Communities from spreading to other territorial administrations, thus losing the potential to improve intervention with these children and adolescents. Autonomous Communities: lack of training and communication about the legislation on asylum and refugees.

- Both in the administrative and judicial procedures there is no real fulfilment of the right to be heard and listened to, and they are treated like mere passive objects that need protection, not as the true holders of rights.
- The non-ratification, as requested by the Plataforma de Infancia in its previous Complementary Report to the Committee on the Rights of the Child, and as suggested to Spain by this Committee in its Concluding Observations in 2010 of the International Convention on the Protection of the Rights of all Migrant Workers and their Families.

Some authorities are still asking themselves whether or not UFM are subject to protection as minors in the Spanish system of protection at the same time as the international one, when the law includes their right to dual protection which does not exclude them from either system



Recommendations



- The Government and Public Administrations must make a real change in the conception of UFM and children and adolescents who are refugees, asylum seekers and victims of exploitation and human trafficking, considering them, above all, to be entitled to the rights and guarantees recognized by the CRC, in its Optional Protocols (OP) and in other treaties. This must mean prioritizing the intervention of the competent authorities in the protection of children and adolescents rather than the intervention of the Police or the Interior Ministry.
- One way of facilitating this change and producing an overall improvement would be passing an integrated Organic Law on violence against children and adolescents, as explained in other chapters in this Report.
- Notwithstanding these changes in concepts and legislation, the best way to guarantee a better application of the existing regulations is to improve the dissemination and knowledge of these precepts, along with proper training for all of the professionals involved.



Administration of juvenile justice

Measures adopted as a response to the last observations made by the Committee on the Rights of the Child (2010)

- Since the Concluding Observations of the Committee on the Rights of the Child in 2010, Organic Law 5/2000, of 12 January, which regulates penal responsibility for minors, has not been subject to any new reform, and therefore the text still contains and maintains in force the modifications introduced by four reforming Laws which meant a serious reinforcement of the penalties for adolescents who break the law (Organic Law 7/2000, of 22 December, Organic Law 9/2000, of 22 December, Organic Law 15/2003, of 25 November, and Organic Law 8/2006, of 4 December).
- Regarding the preventive measures on juvenile delinquency (intervention with families, training of professionals, etc.), not only have they increased in line with the recommendations of the Concluding Observations of the Committee on the Rights of the Child in 2010, but in many cases they have come to a standstill or been reduced, undoubtedly as a consequence of the profound economic crisis that Spain has endured in this period and the corresponding cuts that have been made.
- The 2nd National Strategic Plan on Childhood and Adolescence 2013-2016 (2nd NSPCA) incorporated an Objective 5 which sought to “intensify preventive and reinsertion actions with children and adolescents in situations of social conflict”.



Changes both positive and negative that have taken place since the last report



- Since 2010, there has been a progressive decrease in juvenile delinquency and in the measures imposed by judges on minors, as the same time as year after year there has been a reduction in the number of these serious crimes and the measures imposed.
- Therefore, according to the official statistics, the rate of condemnatory sentences against adolescents, which since 2001 -the year in which Organic Law 5/2000 came into force- had been increasing steadily up to its highest point in 2010 (18,238 minors sentenced), has been gradually decreasing: 17,039 in 2011(-6.6%), 16,172 in 2012 (-5.1%), 14,744 in 2013 (-8.8%), 15,048 in 2014 (+2.1%) and 13,981 in 2015 (-7.1%).
- In terms of the measures adopted, they follow the recommendation of the Committee on the Rights of the Child which advocates the use of measures which do not involve

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a custodial sentence and, in this way, in 2015 -following the pattern of previous years-, of the total number of measures imposed (23,041), the most frequently imposed one was a supervised release on probation (in 40.0% of cases), followed by community service (in 16.9% of cases) and the carrying out of socio-educational tasks (11.2%), then in fourth place -although very close to the third one- we find confinement in a semi-open regime (11.17%) and then at some distance we find confinement in a closed detention centre (2.12%), therapeutic confinement (1.84%) and confinement in an open facility (0.78%).

- The main source of information about this environment is offered by the Basic Statistics on Young Offenders, whose last available publication (Number 14) includes data from 2014 (Reports, Studies and Research, Ministry of Health, Social Services and Equality, 2016).



- In practice, in the cases of the most serious crimes (murder, manslaughter, rape and sexual assaults) there is a tendency on the part of juvenile courts, to impose custodial sentences in closed detention centres -this is required by Organic Law 5/2000- for the maximum duration possible, which is clearly detrimental to the educational aim of prison. That is to say, even though in the cases of minors under 14 and 15 years of age they could give a sentence of a 1 to 5 years in a closed detention centre and in the case of minors aged 16 to 17 they



could make this sentence 1 to 8 years in a closed detention centre, judges normally opt for the longest duration and sometimes go near to the maximum permitted by the Law.

- We should regard as negative (although perhaps it is no more than an inevitable consequence of social changes) the progressive increase in the participation of teenage girls in the number of sentences imposed, which in 2010 was 15.91% and in 2015 had reached 20.3%.
- In Spain there has been a decrease in the general population and, specifically, in the number of young people between 14 and 17 years of age. In 2001 (the year that Organic Law 5/2000 came into force), there were 1,923,312 of them and by the 1st of January 2016 that figure had dropped down to 1,773,456. Of that last number, 51.5% were men and 48.5% were women.
- Nevertheless, and despite the reduction in the number of crimes and the sentences imposed on adolescents that we have mentioned previously, there has still not been any significant reduction either in the number of public employees devoted to investigating these crimes, judging them and offering technical support in this field (prosecutors, judges, technical teams) or in the number of professionals devoted to the material fulfilment of the measures imposed (although there have been budgetary cuts, as mentioned in the following points). Nevertheless, if this decreasing tendency continues among the population in general and adolescents in trouble with the law in particular, it is likely that this reduction in staff will take place.
- What has happened as a consequence of the crisis has been



a cut in the resources devoted to the material fulfilment of the sentences imposed by judges that, as we must remember, correspond to the Autonomous Communities. This has led to reductions in staff numbers in different areas and pay cuts for professionals, with negative repercussions in the quality and effectiveness of services.

- From a legislative point of view, although on a national level (as pointed out previously) there have been no reforms made to Organic Law 5/2000 or to its development regulation (approved by Royal Decree 1774/2004, of 30 July), since 2010 there has been a broad regulatory development by Autonomous Communities in their sphere of responsibility (the implementation of measures), which means a clear benefit for the legal protection of adolescents in trouble with the law.
- The most worrying question is the increase in three types of crimes: violence by minors towards their parents, gender violence among adolescents and crimes committed using technology (cyberbullying, sexting, grooming).
- The main obstacle over this period has been an economic one,



Obstacles found in the carrying out of obligations required by the CRC

derived from the profound crisis that Spain has suffered since 2008, which has meant some cuts in the budgets devoted to juvenile justice.

- The economic crisis has also had an added consequence for children in trouble with the law: the special impact of the crisis on the construction sector and its auxiliary services, and the consequent unemployment in these fields, has drastically reduced the possibility of minors in trouble with the law from finding work placements or even obtaining a contract with these types of companies, with enormous repercussions for the process of their social and professional reintegration.
- In the sphere of legal assistance for minors who are already carrying out a sentence imposed by a court, there is still not enough attention paid to this question by lawyers, which especially necessary in the case of adolescents who are imprisoned, given their greater vulnerability.
- The attention paid to rural areas is deficient, since programmes and resources are normally located in major cities, which is detrimental to adolescents who break the law in less populated areas (who must travel to where the resources and professionals are).
- Although there has been an improvement in the assistance provided for minors with mental illnesses or drug dependencies, this is still insufficient.



Recommendations

- Modification of the development regulation of Organic Law 5/2000 in order to improve certain deficiencies that have been shown in practice and adapt it to the Law after the important reform made by Organic Law 8/2006.
- Promotion in rural areas of the signing of more agreements with local organizations to implement measures that not involve imprisonment.
- Encouragement of studies about the new types of crimes mentioned (violence by children against their parents, gender violence among adolescents and crimes committed using technology), in order to improve prevention and intervention programmes and provide special training for the different professionals who work in this field.
- Finally, it is necessary to allocate more resources to the implementation of therapeutic confinement, particularly in cases of mental illness.

Finally, it is necessary to allocate more resources to the implementation of therapeutic confinement, particularly in cases of mental illness



10

Follow-up of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

(This contains word for word the contents of the Executive Report entitled “Complementary Report on the Monitoring of the Implementation in Spain of the Optional Protocol of the Convention on the Rights of the Child related to selling children, child prostitution and the use of children in pornography”, in the December 2016 version, made by the Federation of Associations for the Prevention of Child Mistreatment FAPMI-ECPAT Spain, in order to contribute to the monitoring of the application of this Protocol).



Measures adopted as a response to the last observations made by the Committee on the Rights of the Child (2010)

General perspective

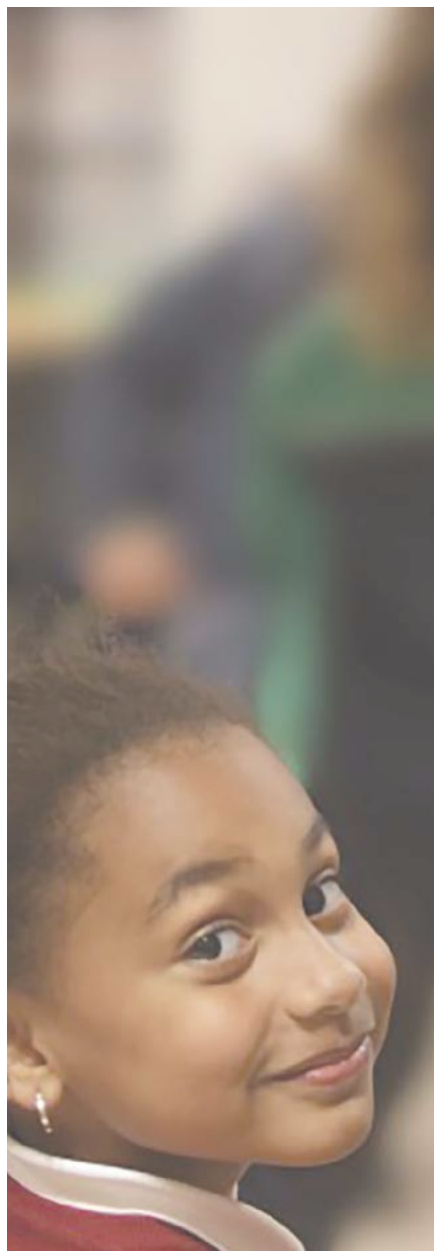
- a. In general terms, it can be stated that Spain has advanced significantly since the last report related to this Optional Protocol in the modification of the factors involved in this problem and measures are being developed -with different levels of effectiveness and relevance- in all the fields proposed in the Concluding Observations of the Committee in 2007.
- b. Although the State has reserved for itself the initiative in legislative modifications and has consulted with key external agents (experts, academics and specialized organizations), its recommendations have not always been incorporated properly, although it is evident that nowadays Spain has a more solid and coherent legislative framework.
- c. At the same time, a good deal of the action by the State has been channeled through grants and subsidies to different specialized organizations in the Tertiary Sector, who are leading actions related to the knowledge of the real situation, awareness, prevention and assistance for victims, although this approach fulfils the proposals made in Paragraph 20 of the Concluding Observations.

Commercial sexual exploitation of children and adolescents (CSECA) has not been incorporated as a variable -disaggregated by modalities- in the Unified Register of Child Mistreatment

Nevertheless, this funding is insufficient, and what is needed is for both the central Administration and the regional ones to become actively involved in the fight against this problem and not simply to delegate most of the activities to third parties. Only this way will we achieve greater impact and involvement in the whole social context.

Data

- a. The State offers some data related to prostitution and pornography for the financial years 2010, 2011, 2012 and 2013, disaggregated in terms of sex and age groups, and these time sequences data have been included about “contact through technology with children under 13 for sexual purposes” (since 2013) and about minors who are victims of human trafficking for sexual purposes disaggregated by nationality (2011, 2012 and 2013).
- b. Nevertheless, these data are insufficient and too incomplete to be able to understand the nature and the scope of this problem. Furthermore, the data only correspond to crimes identified by the Police and then transferred to the Criminal Statistics System, which does not include all of those which operate in Spain. These limitations are also applicable to the data about violence towards children.
- c. Commercial sexual exploitation of children and adolescents (CSECA) has not been incorporated as a variable -disaggregated by modalities- in the Unified Register of Child Mistreatment which means that we do not have information about the levels of potential detection.
- d. Moreover, a review of the official data published seem to show that different criteria are used in the accounting of cases over the years.
- e. This evidence means non-compliance with what is stipulated in the 2007 Concluding Observations in relation to the presentation of statistical data.



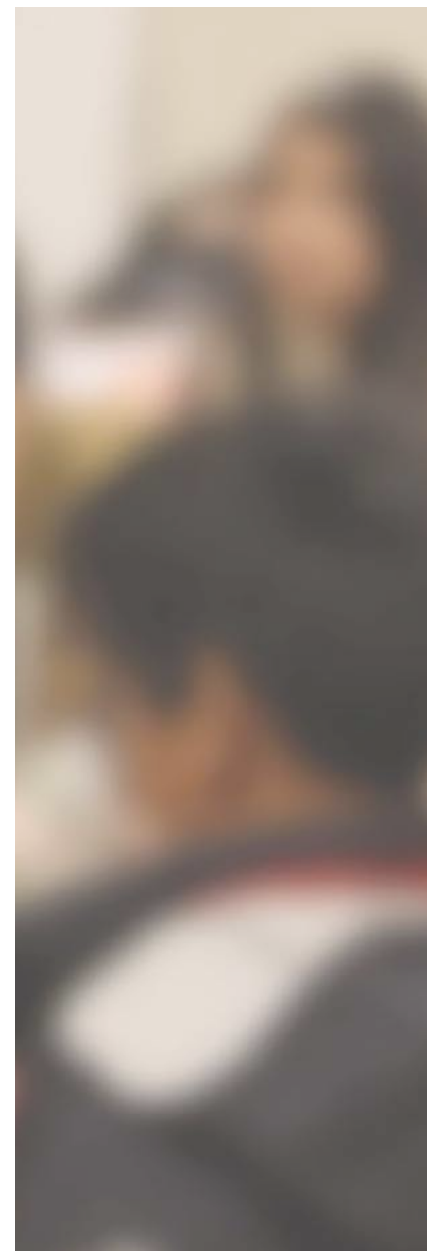
Research and knowledge of the real situation and design and assessment of policies

- a. Regarding the obligation of the State to promote and fund thorough research which allows us to understand this problem in all its dimensions, at the time of writing this report we have not heard anything about this.
- b. This fact is particularly significant, as it hinders the development of effective policies and relevant measures, as well as the assessment and monitoring of these policies and their results.

Communication, awareness and dissemination of knowledge

- a. The actions on the dissemination of the Optional Protocol, social awareness and the communication of information and contents related to CSECA are relative, and in any case, conducted through Tertiary Sector organizations which (sometimes) receive national and regional funding. Although this allows the fulfilment of what was stipulated in Paragraph 6 of the Concluding Observations in 2007, it is necessary to strengthen the leadership of the national and regional Administrations in this field and consolidate the alliances of all the agents involved.

It is evident that a significant part of social awareness about CSECA comes from the attention paid by the media to particularly shocking cases, which are often not very representative and focus on the crime committed and the suffering of the victims



- b.** There is an evident need for awareness and prevention which should be managed and promoted by official institutions and/or Public Administrations supported by specialized Tertiary Sector organizations. This objective which was established in the Plan for Action against the Sexual Exploitation of Children and Adolescents should not be a temporary measure but should serve to show the need for continuous and effective visibility.
- c.** At the same time, it is evident that a significant part of social awareness about CSECA comes from the attention paid by the media to particularly shocking cases, which are often not very representative and focus on the crime committed and the suffering of the victims. Although there has been a notable increase in the references to this phenomenon in the media, it is necessary to keep making progress in the education and training of media professionals so that they focus their message on the importance of prevention and early detection of possible situations of CSECA.

Training of key agents

- a.** The Spanish Government has offered training programmes about some aspects of CSECA to public employees in the regional Administrations and the National Police Force, but they have been limited only to these aspects.
 - i.** There is a certain lack of coordination in terms of the implementation of these programmes, and a lack of planning regarding their contents and the profiles of the teachers. Furthermore, this training must be regarded as leading to a qualification and, therefore, it needs a process of constant monitoring and updating, which does not appear to be taking into place.
 - ii.** There are no data accesible about when these training programmes began, nor in which Autonomous Communities they take place or the number of beneficiaries.

- b.** Regarding the previous question and in a complementary manner, FAPMI-ECPAT Spain leads specific training through the National Training Programme on Detection, Prevention and Intervention in CSECA, which offers specialized seminars aimed at all the key agents.
- c.** Some of the organizations that are members of the Spanish Network against Human Trafficking have also developed specific training actions, although they are not necessarily focused on minors.

Coordination and national strategic planning

- a.** The task of coordination which theoretically belongs to the Childhood Observatory of the Ministry of Health, Social Services and Equality is not being carried out properly in general and particularly in relation to CSECA.
- b.** One example of this is the process of updating the Basic Protocol for intervention against child mistreatment. The previous version of the protocol made by the Childhood Observatory in 2007 was updated in July 2014, but the opportunity was missed to include CSECA as a form of violence against children and establish clear procedures for action and to guide the training of key agents, which would also serve as a reference for Autonomous Communities. Finally, there was only a very partial inclusion of questions such as female genital mutilation or forced marriages.
- c.** Moreover, references are made to the fight against CSECA in the 2nd National Strategic Plan on Childhood and Adolescence (2013-2016, 2nd NSPCA) in line with what is proposed in the 3rd Plan of Action against CSECA, but in both cases this has been difficult to achieve.
- d.** The 3rd Plan of Action against CSECA ended in 2013 and it was not possible to continue it, and national coordination in this field was left without a reference. The absence of an integrated

strategy on a national level related to the fight against CSECA hinders the development both of policies and coordinated and effective actions. Consequently, we consider a prime objective to be the construction of a new Plan of Action which, starting from an analysis of reality and of the results and proposals derived from the assessment of the 3rd Plan of Action against CSECA, would include scientific evidence, existing good practices and the contributions of professionals, experts and academics in this field.

- e. At the same time and as a fundamental characteristic, the Plan should be designed in such a way as to facilitate its assessment both in terms of monitoring and its final impact, and it would therefore need a proper system of indicators and sources of information.
- f. As a significant step forward, we can cite the creation of a specific working group in the Childhood Observatory for the development of a Protocol to provide assistance to minors who are victims of human trafficking in the context of CSECA. Nevertheless, from 2015 to the time of writing this report, the Group's activity has been interrupted and, therefore, has currently not achieved its objective.
- g. Compared to other modalities of CSECA, human trafficking has received special attention, as seen by its inclusion in several national reference frameworks.

Specialized services for victims

- a. There are significant gaps in terms of support for victims. There are no proper mechanisms for the identification of victims (which has frequently led to their criminal prosecution), not are there specialized services to provide assistance to children and adolescents. The different Public Administrations on a regional and local level send the majority of potential victims to public institutions that generally are not sufficiently prepared to provide proper basic assistance for this collective or to NGOs, which

The absence of an integrated strategy on a national level related to the fight against CSECA hinders the development both of policies and coordinated and effective actions

generally have a greater knowledge of this problem and work hard to develop resources and specialized assistance, occasionally in conjunction with Public Administrations.

- b. Although there are experiences in terms of integrated treatment services for CSECA, numerous aspects of these services need to be improved and reinforced in order to assess their effectiveness.

Participation of child and teenage victims in legal proceedings

- a. With the precedent of Circular 3/2009, related to the Protection of Minors who are Victims and Witnesses, published by the State Prosecution Office (10 November 2009), the reform of the legislative framework in this field comes from the updating of the Statute of Victims of Crime, established by Law 4/2017, of 27 April. Nevertheless, despite the fact that this Law includes the guarantee of procedural and extraprocedural rights for victims, and introduce the importance of preconstituted evidence, this is subject to the criteria of the Court and, therefore, it cannot be generally implemented.

Specialized services for aggressors

- a. The first thing that should be taken into account is that in Spain aggressors are not given obligatory treatment in prison, although there are some initiatives about this. Moreover, and in relation to aggressors who are under 18, there is no generalized practice which offers intervention services in all Autonomous Communities.

In this sense, we can highlight:

i. Programme of educational and therapeutic treatment for juvenile sexual offenders developed in 2012 by the Agency of the Autonomous Community of Madrid for the Reeducation and Reinsertion of Young Offender.

ii. The Aturat Programme for the assessment and treatment of sexual offenders implemented by the Government of the Balearic Islands since 2010.

Legislative framework

a. The partial implementation of the Lanzarote Convention and the measures derived from its application, which involve greater protection from violence for children and adolescents, especially in the case of different forms of sexual violence, must be considered a significant step forward in relation to many of the remarks made by the Committee on the Rights of the Child about the present Protocol (requirement to provide a criminal record certificate, training of professionals, etc.).

b. Development of legislative reforms to increase the protection of children and adolescents and also in terms of prevention and intervention about CSECA, in which the following points are especially relevant:

- » Register of sexual offenders and the need to provide a certificate that states that the holder has not committed any crimes of a sexual nature in order to be able to work with minors.
- » Raising the age of sexual consent (Paragraph 24) to 16, which has been included in the reform of the Penal Code through Organic Law 1/2015, of 30 March.
- » Reform of the Penal Code (Paragraph 26).
- » Ratification of the instruments of the Council of Europe (Paragraph 26): a) Council of Europe Convention on action

against trafficking in human beings (2009); b) Convention on Cybercrime (2010); c) Convention on the prevention and combating against women and domestic violence (2014).

- » Transposition of European Directives: Directive 2011/93/EU, on the fight against sexual abuse and sexual exploitation of minor and child pornography and Directive 2011/36/UE, on preventing and combating trafficking of human beings and protecting its victims.
- » Measures related to the coercing of children and adolescents to engage in prostitution or the generation of contents related to sexual abuse (pornography).
- » Measures related to the trafficking of children and adolescents for purposes linked to CSECA.
- » Measures related to forced marriages.
- » Assistance and international cooperation [Paragraph 30 (Jurisdiction), 32 (Extradition), 39 and 40 (assistance and international cooperation)].



Development of legislative reforms to increase the protection of children and adolescents and also in terms of prevention and intervention about CSECA



Changes both positive and negative that have taken place since the last report



- Since 2007 several specific protocols and plans have been developed both on a national and regional level aimed at awareness, detection, prevention and intervention in terms of commercial sexual exploitation and human trafficking with a particular emphasis on the question of minors. This has led to an increase in coordination and visibility in relation to the problem of CSECA, although not to the extent that would be desirable, as indicated in previous sections of this report.
- Relevant and progressive implication of the Spanish tourist industry (especially hotels) through a Code of Conduct for the protection of children and adolescents from commercial sexual exploitation related to tourism and travel. There are currently 17 Spanish companies and organizations that have signed up to the Code and work is being done with 9 other organizations, which makes Spain an international point of reference and allows the fulfilment of what was stipulated in Paragraph 22 of the Concluding Observations in 2007 and General Comment 16 (2013) made by the Committee on the Rights of the Child about the obligations of countries in relation to the impact of the business sector on the rights of children and adolescents. This awareness does not only involve large-scale companies but also reaches smaller organizations and microcompanies.



- No reform has been made in the information register systems nor have there been any incentives provided for research that would lead to better knowledge of the real situation and design effective responses.
- Neither national nor regional Administrations have assumed the role of leadership need by such a complex phenomenon.



Obstacles found in the carrying out of obligations required by the CRC



CSECA is linked to hidden criminal activities in which businesses and private organizations play a relevant role

- Lack of knowledge and awareness about the problem. The problem of CSECA remains relatively unknown by society and is considered far removed from the problems linked to childhood and adolescence in Spain.
- This lack of awareness is also related to the difficulties in finding epidemiological data and statistics about prevalence and victimization of minors in this type of violence.
- The detection rate is low depending on the type of crime committed. For example, the detection rate for child prostitution is low (although there are indicators that this exists to a significant extent in Spain), but there is a high detection rate for child pornography networks. Clear evidence of this is provided by the fact the Spanish Civil Guard has created a specialized unit to tackle Sexual Exploitation within its Group for Minors.
- Absence of mechanisms for coordination and specific training for detection and assistance to victims of this form of violence. The invisibility of the phenomenon does not encourage the establishment of interventions and specific strategies adapted to the needs of children and adolescents. Those professionals who provide direct assistance and are involved in the prosecution of offenders and identification and intervention with victims lack specialized training in cases involving minors.
- There is a need for greater involvement by private organizations in general in terms of their commitment to and responsibility for detection and prevention. CSECA is linked to hidden criminal activities in which businesses and private organizations play a relevant role. Their lack of involvement and reluctance to accept their social responsibility permits impunity, persistence and continuity in the case of some forms of exploitation such as child pornography, human trafficking or prostitution.
- Legislative and institutional advances have a relative impact in practice without any real correspondence. The plans established in different fields have not been assessed periodically and many of the strategies and objectives proposed have not even started or been developed in the terms originally stated.



Recommendations

- Urgent development of a new national Plan of Action to fight CSECA which would include measures for coordination all over the country, homogenization of the response by all of the agents involved and adaptation of the measures to the real situation of each region.
- Thorough research into the contents of the present Protocol both on a national and regional level.
- More effort and a clear commitment to increasing social awareness about the existence, impact and specific nature of the problem of CSECA.
- Establishment of specific plans and protocols for actions to help victims under 18 years of age which would be differentiated from the actions aimed at helping those over this age.
- Increasing the visibility of the vulnerable nature of specific groups at risk from CSECA such as minors who suffer from mental illnesses and/or developmental disabilities or migrant children.
- Promotion of the involvement of businesses and the private sector through the signing of codes of conduct and the development of childhood policies in their different actions.
- Implementation of preventive activities about this problem with children and adolescents, using a positive and sensitive approach so as to avoid further situations of victimization among them and their peers.
- Progress in the implementation of the measures included in the Lanzarote Convention in relation to sexual violence against children and adolescents.





11

**Follow-up of the Optional Protocol to
the Convention on the Rights of the Child
on the involvement of children
in armed conflict**



Measures adopted as a response to the last observations made by the Committee on the Rights of the Child (2010)



- Introduction in the Penal Code, with the 2010 reform, of the criminal classification of the action of recruiting or conscripting people under 18 years of age or using them to participate directly in hostilities.
- Although Law 12/2009, of 30 October, which regulates the right to asylum and subsidiary protection, establishes that children and adolescents who request international protection having been victims of armed conflicts will receive proper healthcare and psychological treatment, and the qualified assistance that they may need, this Law does not set out measures for the special protection of those who have been recruited to participate in hostilities.



Changes both positive and negative that have taken place since the last report



- Ratification by Spain of the Directives to prevent the military use of schools and universities during armed conflicts, as the military use of schools in armed conflicts (and the consequent denial of the right to education) produces in many cases the recruitment of children and adolescents by the Armed Forces or other armed groups.



Organic Law 4/2015, of 30 March, on the protection of public safety, authorizes summary deportations from the borders at Ceuta and Melilla, which are carried out without sufficient guarantees to respect the principle of non-refoulement

- The Royal Ordinances for the Armed Forces (approved by Royal Decree-RD-96/2009, of 6 February) establishes in Article 112 on the protection of the population which is especially vulnerable the protection of “(...) people who are defenceless or helpless, especially women and children, against rape, forced prostitution, humiliating or degrading treatment or any form of exploitation or sexual aggression.” Nevertheless, it does not contain any provision related to the recruitment and participation of children and adolescents in the Armed Forces or armed groups and their use in hostilities.
- Organic Law 4/2015, of 30 March, on the protection of public safety, authorizes summary deportations from the borders at Ceuta and Melilla, which are carried out without sufficient guarantees to respect the principle of non-refoulement. In the case of minors, it is particularly worrying that these practices can mean their expulsion without being properly identified as minors and as potential victims of recruitment by the Armed Forces or armed groups in their own countries or in other ones.

- Moreover, in the case of unaccompanied foreign minors (UFM):
 - The Administration does not always notice their plight or automatically take legal responsibility for them. This decision is delayed far too long.
 - Regarding documentation, residence and work permits are subject to long bureaucratic delays. The maximum period of 9 months is normally consumed before beginning this process, which goes against the greater interest.

Therefore, the questions mentioned in other sections of this Report are reinforced.

- Although it is positive that in February 2014 Spain ratified the Arms Trade Treaty, in Spanish legislation there is still no specific prohibition in relation to the sale of arms to countries where children and adolescents are or can be recruited or used in hostilities.

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Obstacles found in the carrying out of obligations required by the CRC

- Lack of proper identification of children and adolescents as minors and victims of recruitment: they are excluded from the system of protection and do not benefit from the special protection and psychological support that they should receive due to their particular vulnerability. Their inclusion in the reception system, along with adults in some cases, exposes them to even greater vulnerability (risk of abuse and exploitation) and, as they are not identified as beneficiaries of international protection, they are also exposed to the risk of being expelled.
- Lack of training on the part of all the professionals involved in the processes of asylum and attention to victims of recruitment.





Recommendations

- Modification of Article 112 of the Royal Ordinances of the Armed Forces, in order to include the protection offered by the Optional Protocol related to the participation of children in armed conflicts.
- Modification of Organic Law 4/2015, of 30 March, to put a stop to the summary deportations which impede the identification of those who may be children and adolescents and victims of recruitment or conscription to participate in armed conflicts.
- Ensuring that identification of children and adolescents and of potential victims of recruitment, providing them with proper protection and psycho-social support, with training programmes in childhood rights and protection for all staff who may come into with minors and potential victims.
- Inclusion in the legislation and regulations on the transfer of weapons of a specific prohibition in relation to the sale of weapons when their final destination is a country in which children are or may be recruited or used in hostilities.





Glossary

A	AA.LL.	Administraciones Locales.
	AA.PP.	Administraciones Públicas.
	ACNUDH.	Oficina del Alto Comisionado para los Derechos Humanos.
	AOD.	Ayuda Oficial al Desarrollo.
	AROPE.	At risk of poverty and/or social exclusion.
B	BOE.	Boletín Oficial del Estado.
	CA.	Comunidad Autónoma.
	CC.	Código Civil.
	CC.AA.	Comunidades Autónomas.
	CC.LL.	Corporaciones Locales.
	CC.OO.	Confederación Sindical de Comisiones Obreras.
	CDN.	Convención sobre los Derechos del Niño.
	CE.	Constitución Española.
	CEMA.	Consejo Estatal de Medios Audiovisuales.
	CETIS.	Centros de Estancia Temporal de Inmigrantes.
	CETFDCM.	Convención sobre la Eliminación de todas las Formas de Discriminación contra la Mujer.
C	CDPD.	Convención sobre los Derechos de las Personas con Discapacidad.
	CGPJ.	Consejo General del Poder Judicial.
	CIES.	Centros de Internamiento de Extranjeros.
	CNMC.	Comisión Nacional de los Mercados y la Competencia.
	Código PAOS.	Código de correulación de la publicidad de alimentos y bebidas dirigida a menores, prevención de la obesidad y salud.
	COFOG.	Clasificación funcional del gasto del subsector Administración Local.

C	COGAM.	Colectivo de Lesbianas, Gais, Transexuales y Bisexuales de Madrid.
	CP.	Código Penal.
	CRS.	Creditor Reporting System.
D	DD.HH.	Derechos Humanos
	DID.	Discapacidad intelectual y del desarrollo.
	EAPN.	Estrategia de Atención al Parto Normal.
	EAPN-ES.	Red Europea de Lucha contra la Pobreza y la Exclusión Social en el Estado Español.
	EASP.	Escuela Andaluza de Salud Pública.
E	ESCIA.	Explotación Sexual Comercial Infantil y Adolescente.
	ESCNA.	Explotación Sexual Comercial de Niños, Niñas y Adolescentes.
	ESO.	Educación Secundaria Obligatoria.
	Eurostat.	Oficina Estadística de la Unión Europea.
	FAPMI-ECPAT España	Federación de Asociaciones para la Prevención del Maltrato Infantil.
	FF.AA.	Fuerzas Armadas.
F	FRA.	European Union Agency for Fundamental Rights.
	FELGTB.	Federación Estatal de Lesbianas, Gais, Transexuales y Bisexuales.
	FOESSA.	FOESSA. Fomento de Estudios Sociales y Sociología Aplicada.
	FPB.	Formación Profesional Básica.
	IHAN.	Iniciativa para la humanización de la asistencia al nacimiento y la lactancia.
	INE.	Instituto Nacional de Estadística.
I	IRPF.	Impuesto sobre la Renta de las Personas Físicas.
	ITS.	Infecciones de Transmisión Sexual.
	IVIE.	Instituto Valenciano de Investigaciones Económicas.

L	LGCA.	Ley General de la Comunicación Audiovisual.	P	PIB.	Producto Interior Bruto.
	LGTB.	Lesbianas, Gais, Transexuales y Bisexuales.		PNAIN.	Plan Nacional de Acción para la Inclusión Social.
	L.O.	Ley Orgánica.		RD.	Real Decreto.
	LOMCE.	Ley Orgánica para la Mejora de la Calidad Educativa.		RDL.	Real Decreto-ley.
	MAEC.	Ministerio de Asuntos Exteriores y de Cooperación.	R	RECTP.	Red Española Contra la Trata de Personas.
	MENAS.	Menores Extranjeros no Acompañados.		RNB.	Renta Nacional Bruta.
	MECD.	Ministerio de Educación, Cultura y Deporte.		RR.SS.	Redes Sociales.
	MGF.	Mutilación genital femenina.		RUMI.	Registro Unificado de Maltrato Infantil.
M	MSPSI.	Ministerio de Sanidad, Política Social e Igualdad.		SIDA.	Síndrome de la Inmunodeficiencia Adquirida.
	MM.CC.	Medios de Comunicación.	S	SNS.	Sistema Nacional de Salud.
	MSSSI.	Ministerio de Sanidad, Servicios Sociales e Igualdad.		SS.SS.	Servicios Sociales.
	M€.	Millones de euros.		SEC.	Sistema Estadístico de Criminalidad.
		NEE.	Necesidades Educativas Especiales.		TC.
N	NN.	Niños y niñas.	T	TDAH.	Trastorno por Déficit de Atención e Hiperactividad.
	NNA.	Niños, niñas y adolescentes.		TIC.	Tecnologías de la información y de la comunicación.
	NN.UU.	Naciones Unidas.		TS.	Tribunal Supremo.
				TSJ.	Tribunal Superior de Justicia.
	OCDE.	Organización para la Cooperación y el Desarrollo Económicos.		TV.	Televisión.
O	OMS.	Organización Mundial de la Salud.	U	UCIS.	Unidades de Cuidados Intensivos.
	ONG.	Organización No Gubernamental.		UE.	Unión Europea.
				UNICEF.	Fondo de las Naciones Unidas para la Infancia.
	PAH.	Plataforma de Afectados por la Hipoteca.	V	VIH.	Virus de la Inmunodeficiencia Humana.
	PEF.	Puntos de Encuentro Familiar.		VG.	Violencia de género.
P	PENIA.	Plan Estratégico Nacional de Infancia y Adolescencia.			
	PESIA.	Plan de Acción contra la Explotación Sexual de la Infancia y la Adolescencia.			
	PF.	Protocolo Facultativo.			
	PGE.	Presupuestos Generales del Estado.			
	PIAF.	Plan Integral de Apoyo a la Familia.			
	PISA.	Programme for International Student Assessment.			

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Plataforma de Infancia

We are an alliance of non-profit making organizations with a plural, democratic and independent nature from a political and religious point of view, which was legally established in 1997 with the aim of joining the forces of national organizations that work with children and creating a space for coordination that would promote initiatives in favour of children and adolescents in Spain.

The reference framework of the Plataforma de Infancia is the Convention on the Rights of the Child. This Convention was approved by the General Assembly of the United Nations on the 20th of November 1989, to protect the rights of all human being under 18, and considers that they should not be treated as objects of charity but rather as individuals with rights and specific interests.

Our mission

Through the joint work of social organizations throughout Spain, we protect, promote and defend the rights of children and adolescents in line with the United Nations Convention on the Rights of the Child.

What do we do?

We give a stronger voice to childhood organizations in their dealings with Public Administrations and society in general, contributing to the design of policies aimed at the welfare of children.

We raise general awareness in society in terms of knowledge of and respect for the rights of children.

We strengthen the associative nature of childhood organizations and reinforce the relations between member organizations, other organizations and networks of associative movements.

Through coordination and inter-association participation, we contribute to the construction of Regional Platforms.

We are involved in the design of childhood policies on an international level through our participation in different key spaces in the European Union and Latin America.

Our values

EQUALITY for all.

Promotion of child **PARTICIPATION** in different stages of development.

COOPERATION between social organizations to join forces to achieve their objectives.

Professional and ethical **COMMITMENT** to carrying out job properly.

TRANSPARENCY and **RESPONSIBILITY** in the financial control and administration of resources.

QUALITY in the implementation of programmes and services.

SENSITIVITY towards any actions that violate the rights of children.



Member Organizations



Acción Familiar • Aldeas Infantiles SOS España • Asociación Centro Trama • Asociación Colectivo La Calle • Asociación de Acogedores de Menores de la Comunidad de Madrid (ADAMCAM) • Asociación Incide • Asociación Mensajeros de la Paz • Asociación Navarra Nuevo Futuro • Asociación Nuevo Futuro • Ayuda en Acción • Cáritas Española • Ciudad Escuela Muchachos (CEMU) • Confederación de Centros Juveniles Don Bosco de España • Confederación por el Mejor Interés de la Infancia EMIN • Coordinadora Estatal de Plataformas Sociales Salesianas • Cruz Roja Juventud • Diaconía • DIDANIA, Federación de Entidades Cristianas de Tiempo Libre • Educo • FEDAIA Federació d'Entitats d'Atenció i de Educació a la Infància i l'Adolescència • Federación Española de Padres de Niños con Cáncer • Federación de Asociaciones para la Prevención del Maltrato Infantil – FAPMI • Federación de Movimientos Junior - Movimiento Junior • Federación INJUCAM para la Promoción de la Infancia y la Juventud • Fundació Vicki Bernadet • Fundación Acrescere • Fundación Aldaba • Fundación Aliados • Fundación Amigo • Fundación ANAR • Fundación Atyme • Fundación Balía por la Infancia • Fundación Diagrama Intervención Psicosocial • Fundación Esplai, Ciudadanía Comprometida • Fundación Márgenes y Vínculos • Fundación Meniños • Fundación Menudos Corazones • Fundación Plan International España • Fundación Proyecto Solidario para la Infancia • Fundación Save the Children • Fundación SM • Fundación Theodora • Fundación Tierra de Hombres • Fundación UNICEF – Comité Español • Fundación World Vision España • Fundación Yehudi Menuhin España – FYME • Infancia sin Fronteras • Juventudes Socialistas de España • Kamira. Sociedad Cooperativa de Iniciativa Social • Liga Española de la Educación y la Cultura Popular – LEECP • Movimiento Scout Católico • Organización Juvenil Española • Plataforma de Organizaciones de Infancia de Madrid • Senda, Movimiento Senda, Desarrollo y Educación España. Senda – MSDE • Sociedad Española de Pediatría Social • Taula d'entitats del Tercer Sector Social de Catalunya (Plataforma d'Infancia de Catalunya) – PINCAT • Taula per la Infància i l'Adolescència a Catalunya (TIAC) • Voces para la Conciencia y el Desarrollo • YMCA España.



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We are an association made up of social organizations dedicated to children.

We are a nonprofit organization and declared of public good.

We are plural, supportive, democratic and independent of any political or religious organization.

Their voice is ours

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