

# Intersex Genital Mutilation Human Rights Violations Of Children With Variations Of Reproductive Anatomy



NGO Report (for LOIPR)  
to the 7<sup>th</sup> Report of Spain on the  
Convention on the Rights of the Child (CRC)

## Compiled by:

**StopIGM.org / Zwischengeschlecht.org** (International Intersex Human Rights NGO)

Markus Bauer, Daniela Truffer

*Zwischengeschlecht.org*

*P.O.Box 1318*

*CH-8031 Zurich*

*info\_at\_zwischengeschlecht.org*

<https://Zwischengeschlecht.org/>

<https://StopIGM.org>

**Caminar Intersex** (Spanish Intersex Human Rights NGO)

Clara Montesdeoca Castilla

*caminarintersex\_at\_gmail.com*

<https://caminarintersx.wordpress.com/quienes-somos/>

Facebook: <https://www.facebook.com/caminarintersex>

Twitter: @CIntersex

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<https://intersex.shadowreport.org/public/2021-CRC-Spain-LOIPR-NGO-Intersex-IGM.pdf>



## Executive Summary

Despite laws formally “prohibiting” IGM in currently **8 Autonomous Communities**, all **typical forms of Intersex Genital Mutilation are still practiced all over Spain**, facilitated and **paid for by the State party** via the **public health system**, and perpetrated by **public University Hospitals and private health-care providers alike**. The **categorical failure** of the current laws to adequately protect intersex children from harmful practices becomes even more apparent in comparison with the State party’s **vastly superior, current anti-FGM legislation and policies**.

**Spain** is thus in breach of its **obligations** under CRC to **(a) take effective legislative, administrative, judicial or other measures to prevent harmful practices on intersex children** causing severe mental and physical pain and suffering of the persons concerned, and **(b) ensure access to redress and justice**, including fair and adequate **compensation** and as full as possible **rehabilitation** for victims, as stipulated in **CRC art. 24 para. 3** in conjunction with the **CRC-CEDAW Joint general comment No. 18/31** “on harmful practices”.

**This Committee has consistently recognised IGM practices to constitute a harmful practice** under the Convention in Concluding Observations.

In total, UN treaty bodies **CRC, CEDAW, CAT, CCPR and CRPD** have so far issued **72 Concluding Observations** recognising IGM as a **serious violation of non-derogable human rights**, typically obliging State parties to **enact legislation** to **(a) end the practice, (b) ensure redress and compensation and (c) access to free counselling**. Also, the UN Special Rapporteurs on Torture (**SRT**) and on Health (**SRH**), the UN High Commissioner for Human Rights (**UNHCHR**), the World Health Organisation (**WHO**), the Inter-American Commission on Human Rights (**IACHR**), the African Commission on Human and Peoples’ Rights (**ACHPR**) and the Council of Europe (**COE**) recognise IGM as a **serious violation of non-derogable human rights**.

**Intersex people** are born with **Variations of Reproductive Anatomy**, including atypical genitals, atypical sex hormone producing organs, atypical response to sex hormones, atypical genetic make-up, atypical secondary sex markers. While intersex people may face several problems, in the “developed world” the most pressing are the ongoing **Intersex Genital Mutilations**, which present a distinct and unique issue constituting significant human rights violations.

**IGM practices include non-consensual, medically unnecessary, irreversible, cosmetic genital surgeries, and/or other harmful medical procedures** that would not be considered for “normal” children, without evidence of benefit for the children concerned. **Typical forms of IGM** include “masculinising” and “feminising”, “corrective” genital surgery, sterilising procedures, imposition of hormones, forced genital exams, vaginal dilations, medical display, involuntary human experimentation and denial of needed health care.

IGM practices cause known **lifelong severe physical and mental pain and suffering**, including loss or impairment of sexual sensation, painful scarring, painful intercourse, incontinence, urethral strictures, impairment or loss of reproductive capabilities, lifelong dependency of artificial hormones, significantly elevated rates of self-harming behaviour and suicidal tendencies, lifelong mental suffering and trauma, increased sexual anxieties, and less sexual activity.

For more than **25 years**, intersex people have denounced IGM as **harmful and traumatising**, as western **genital mutilation**, as **child sexual abuse and torture**, and called for **remedies**.

This **NGO Report** has been compiled by **StopIGM.org / Zwischengeschlecht.org**, an international intersex NGO. It contains **Suggested Questions** (see p. 15).

**NGO Report (for LOIPR) to the 7<sup>th</sup> Report of Spain  
on the Convention on the Rights of the Child (CRC)**

**Table of Contents**

**IGM Practices in Spain (p. 8-15)**

<b>Executive Summary .....</b>	<b>3</b>
<b>A. Introduction .....</b>	<b>5</b>
1. Spain: Intersex, IGM and Human Rights .....	5
2. About the Rapporteurs .....	5
3. Methodology .....	6
<b>B. Precedents.....</b>	<b>7</b>
1. 2018 CRC Concluding Observations on Intersex (CRC/C/ESP/CO/5-6, para 24).....	7
2. 2019 CCPR List of Issues prior to Reporting (LOIPR) (CCPR/C/ESP/QPR/7, para 10) .....	7
<b>C. IGM in Spain: State-sponsored and pervasive, Gov fails to act .....</b>	<b>8</b>
1. Overview: IGM practices in Spain: Pervasive and unchallenged.....	8
2. Spain’s commitment to “protect intersex children from violence and harmful practices” .....	8
a) UNHRC45 Statement, 01.10.2020.....	8
b) UNHRC48 Statement, 04.10.2021 .....	9
3. Existing Laws and Legislative Initiatives against IGM .....	9
4. Most Common IGM Forms advocated and perpetrated by Spain .....	10
a) IGM 3 – Sterilising Procedures: Castration / “Gonadectomy” / Hysterectomy .....	10
b) IGM 2 – “Feminising Procedures”: Clitoris Amputation/“Reduction”, “Vaginoplasty” .....	11
c) IGM 1 – “Masculinising Surgery”: Hypospadias “Repair” .....	13
5. Obstacles to redress, fair and adequate compensation.....	14
<b>D. Suggested Questions for the LOIPR.....</b>	<b>15</b>

## A. Introduction

### 1. Spain: Intersex, IGM and Human Rights

Starting in 2015, so far **8 autonomous Communities** in Spain (out of 17) have enacted **laws to formally prohibit or at least restrict IGM practices** (*Madrid, Murcia, Extremadura, Navarra, Balearic Islands, Andalusia, Valencia, Canary Islands*); however, **none of them sanction IGM**, or address obstacles to access to justice, and **none of them are enforced**.

In 2018, this Committee (CRC/C/ESP/CO/5-6, para 24) already considered IGM in Spain as a **harmful practice**, and recommended the State party to “*prohibit unnecessary medical or surgical treatment [...] on intersex children*”. Thereafter, on the **national level a Draft Law** was green-lit for discussion in Parliament, but in 2019 **expired** due to the change in the legislative period.

This Thematic NGO Report demonstrates that the current and ongoing **harmful medical practices on intersex children in Spain** – advocated, facilitated and **paid for by the State party**, and perpetrated both by public university hospitals and private health-care providers – constitute a **serious breach** of Spain’s obligations under the Convention.

### 2. About the Rapporteurs

This NGO report has been prepared by the intersex NGOs *Caminar Intersex* and *StopIGM.org / Zwischengeschlecht.org*.

- **Caminar Intersex** (English translation: Walking Intersex) is a Spanish NGO based in the Canary Islands. It was founded in 2019, although it started its activism in 2015. Its main objective is training, education and awareness-raising for the respect of intersex bodies in our society. Caminar Intersex was substantially involved in the unanimous approval of the 2021 Law aimed at prohibiting genital mutilations of intersex babies in the Canary Islands. Currently, they are working with the Canary Islands Government Health Department on the Protocol for intersex people.
- **StopIGM.org / Zwischengeschlecht.org** is an international intersex human rights NGO based in Switzerland, working to end IGM practices and other human rights violations perpetrated on intersex people, according to its motto, “*Human Rights for Hermaphrodites, too!*”<sup>1</sup> According to its charter,<sup>2</sup> StopIGM.org works to support persons concerned seeking redress and justice and regularly reports to relevant UN treaty bodies, often in collaboration with local intersex persons and organisations,<sup>3</sup> substantially contributing to the so far 72 Treaty body Concluding Observations recognising IGM as a serious human rights violation.<sup>4</sup>

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1 <https://Zwischengeschlecht.org/> English homepage: <https://StopIGM.org>

2 <https://zwischengeschlecht.org/post/Statuten>

3 <https://intersex.shadowreport.org>

4 <https://stopigm.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations>

In addition, the Rapporteurs would like to acknowledge the work of **Brújula Intersexual**.<sup>5</sup> And we would like to acknowledge the work of **Amets Suess Schwend** <sup>6</sup> and **Daniel J. García López**.<sup>7</sup>

### 3. Methodology

This thematic NGO report is a localised update to the **2019 CCPR Spain NGO Report (for LOIPR)**<sup>8</sup> and the **2017 CRC Spain NGO Report (for Session)**<sup>9</sup> by partly the same Rapporteurs.

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5 <https://brujulaintersexual.org/>

6 [https://academic.oup.com/eurpub/article/31/Supplement\\_3/ckab164.166/6405737](https://academic.oup.com/eurpub/article/31/Supplement_3/ckab164.166/6405737)

7 <https://brujulaintersexual.files.wordpress.com/2017/10/intersex-manifesto-english.pdf>

8 <http://intersex.shadowreport.org/public/2019-CCPR-LOIPR-Spain-Intersex-Brujula-StopIGM.pdf>

9 <http://intersex.shadowreport.org/public/2017-CRC-Spain-NGO-Brujula-Zwischengeschlecht-Intersex-IGM.pdf>

## **B. Precedents**

### **1. 2018 CRC Concluding Observations on Intersex (CRC/C/ESP/CO/5-6, para 24)**

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fESP%2fCO%2f5-6&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fESP%2fCO%2f5-6&Lang=en)

#### ***Harmful practices***

*24. The Committee recommends that the State party prohibit unnecessary medical or surgical treatment from being performed on intersex children, when those procedures entail a risk of harm and can be safely deferred until the child can actively participate in decision-making. It also recommends that the State party ensure that intersex children and their families receive adequate counselling and support.*

### **2. 2019 CCPR List of Issues prior to Reporting (LOIPR) (CCPR/C/ESP/QPR/7, para 10)**

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fESP%2fQPR%2f7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fESP%2fQPR%2f7&Lang=en)

#### ***Children with variations of sex characteristics (intersex) (arts. 7, 17 and 24)***

*10. Please report on the measures adopted to limit or prohibit the performance of medically unnecessary irreversible surgery and other unnecessary medical procedures on intersex newborns and children until they have reached an age at which they are able to give their free, prior and informed consent. Please also provide information on measures taken to facilitate effective access to justice and redress, including rehabilitation, for those who have been subjected to such surgical procedures or other medical treatment without their consent.*

## C. IGM in Spain: State-sponsored and pervasive, Gov fails to act

### 1. Overview: IGM practices in Spain: Pervasive and unchallenged

In **Spain** (CRC/C/ESP/CO/5-6, para 24), same as in the fellow European Union states of *Portugal* (CRC/C/PRT/CO/5-6, para 28(b); CCPR/C/PRT/CO/5, paras 16-17), *France* (CRC/C/FRA/CO/5, paras 47-48; CAT/C/FRA/CO/7, paras 34-35; CEDAW/C/FRA/CO/7-8, paras 18e-f+19e-f), and *Germany* (CRC/C/DEU/CO/5-6, para 24(c); CAT/C/DEU/CO/5, para 20; CEDAW/C/DEU/CO/7-8, paras 23-24; CRPD/C/DEU/CO/1, paras 37-38), and in **many more State parties**,<sup>9</sup> there are

- **no legal or other protections in place on the national level** to ensure the **prevention of IGM practices**; and **no effective legal or other protections** in the Autonomous Communities of **Madrid, Murcia, Extremadura, Navarra, Balearic Islands, Andalusia, Canary Islands**, as stipulated in art. 24(3) and the Joint General Comment No. 18/31
- **no legal or other protections** in place on the national level to ensure the **accountability of IGM perpetrators**
- **no legal or other measures** in place to ensure **access to redress and justice** for survivors of childhood IGM practices
- **no legal or other measures** in place to ensure **data collection and monitoring** of IGM practices, except in the Autonomous Community of the Canary Islands
- **no legal or other measures** in place on the national level to ensure **education and training** of medical professionals on the consequences of IGM practices

Despite that the persistence of IGM practices in Spain is a **matter of public record**, same as the **criticism and appeals** by **intersex persons, experts and allies**, to this day the Spanish Government fails to **recognise** the serious human rights violations and the severe pain and suffering caused by IGM practices, let alone to **“take effective legislative, administrative, judicial or other measures”** to effectively protect intersex children from harmful practices.

What’s worse, this situation persists despite that in 2018, this Committee already considered **IGM in Spain** as a **harmful practice**, and recommended the State party to **“prohibit unnecessary medical or surgical treatment [...] on intersex children”**, and to **“ensure that intersex children and their families receive adequate counselling and support”** (CRC/C/ESP/CO/5-6, para 24).

### 2. Spain’s commitment to “protect intersex children from violence and harmful practices”, “investigate abuses”, “ensure accountability” and “access to remedy”

#### a) UNHRC45 Statement, 01.10.2020

On occasion of the 45<sup>th</sup> Session of the Human Rights Council the State party supported a public statement calling to **“protect [...] intersex adults and children [...] so that they live free from violence and harmful practices. Governments should investigate human rights violations and abuses against intersex people, ensure accountability, [...] and provide victims with access to remedy.”**<sup>10</sup>

9 Currently we count 72 UN Treaty body Concluding Observations explicitly condemning IGM practices as a serious violation of non-derogable human rights, see:

<https://stopigm.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations>

10 Statement supported by Spain (and 34 other States) during the 45<sup>th</sup> Session of the Human Rights Council on 1 October 2020, <https://www.dfat.gov.au/international-relations/themes/human-rights/hrc-statements/45th-session-human-rights-council/joint-statement-led-austria-rights-intersex-persons>



## b) UNHRC48 Statement, 04.10.2021

On occasion of the **48<sup>th</sup> Session of the Human Rights Council** the **State party** supported a public follow-up statement reiterating the call to end harmful practices and ensure access to justice:

*“Intersex persons also need to be protected from **violence** and States must **ensure accountability** for these acts. [...]*

*Furthermore, there is also a need to take measures to protect the **autonomy** of intersex children and adults and their rights to health and to **physical and mental integrity** so that they live **free from violence and harmful practices**. Medically unnecessary surgeries, hormonal treatments and other invasive or irreversible non-vital medical procedures without their free, prior, full and informed consent are **harmful to the full enjoyment of the human rights** of intersex persons.*

*We call on all member states to take measures to combat violence and discrimination against intersex persons, develop policies in close consultations with those affected, **ensure accountability**, reverse discriminatory laws and **provide victims with access to remedy**.”<sup>11</sup>*

### 3. Existing Laws and Legislative Initiatives against IGM

Out of the **17 Autonomous Communities** in Spain, so far **8 have enacted laws claiming to formally prohibiting or at least restricting IGM practices** (Madrid,<sup>12</sup> Murcia,<sup>13</sup> Extremadura,<sup>14</sup> Navarra,<sup>15</sup> Balearic Islands,<sup>16</sup> Andalusia,<sup>17</sup> Valencia,<sup>18</sup> Canary Islands<sup>19</sup>), however, only 2 of these laws contain (minor) sanctions concerning intersex people at all (Valencia, Canary Islands), and **none of them contain any sanctions for IGM practices**, or address **obstacles to access to justice**, namely the statutes of limitations, or contain extraterritorial protections. In fact, concerning IGM **none of them are enforced**.

On the **national level**, in 2018 a Draft Law was filed in the Spanish Lower House gaining Commission support, however, the Original Draft and the watered-down Commission Draft both didn't contain any sanctions, or address obstacles to justice, or extraterritorial protections, and due to the change of the legislative period the **proposal expired** in 2019.

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11 Statement supported by Spain (and 52 other States) during the 48<sup>th</sup> Session of the Human Rights Council on 4 October 2021, <https://www.bmeia.gv.at/oev-genf/speeches/alle/2021/10/united-nations-human-rights-council-48th-session-joint-statement-on-the-human-rights-of-intersex-persons/>

12 Comunidad de Madrid: Ley 2/2016, 29.03.2016, art. 4, para 3 (prohibition); art. 53 (sanctions), <https://www.boe.es/eli/es-md/l/2016/03/29/2/con>

13 Comunidad Autónoma de la Región de Murcia: Ley 8/2016, 27.05.2016, art. 8, para 3 (prohibition); art. 52 (sanctions), <https://www.boe.es/eli/es-mc/l/2016/05/27/8/con>

14 Comunidad Autónoma de Extremadura: Ley 12/2015, 08.04.2015, art. 11, para 2, <https://www.boe.es/eli/es-ex/l/2015/04/08/12/con>

15 Comunidad Foral de Navarra: Ley Foral 8/201, 19.06.2017, art. 17, para 1, <https://www.boe.es/eli/es-nc/lf/2017/06/19/8/con>

16 Comunidad Autónoma de las Illes Balears: Ley 8/2016, 30.05.2016, art. 23, para 2, <https://www.boe.es/eli/es-ib/l/2016/05/30/8/con>

17 Junta de Andalucía: Ley 8/2017, 28.12.2018, art. 29, <https://www.boe.es/eli/es-an/l/2017/12/28/8/con>

18 Comunitat Valenciana: Ley 23/2018, 29.11.2018, arts. 46-50, <https://www.boe.es/buscar/act.php?id=BOE-A-2019-281>

19 Comunidad Autónoma de Canaria: Ley 2/2021, 07.06.2021, art. 4(3), 6(2), 8(1a), 20(2), 27(2), 27(3a), 27(3a,e), 31(1), [https://www.boe.es/diario\\_boe/txt.php?id=BOE-A-2021-11382](https://www.boe.es/diario_boe/txt.php?id=BOE-A-2021-11382)

In contrast, **FGM** is explicitly forbidden in the **Spanish Criminal Code**, with **sanctions** including *“imprisonment from six to twelve years”* (Organic Act 11/2003, modified article 149.2). Also, **extraterritorial protections** are established (Organic Act 6/1985, article 23.4, modified by Organic Act 1/2014). Further, Article 158 of the Civil Code, modified by Organic Act 9/2000, allows judges to adopt **preventive measures** in the case of an imminent risk of genital mutilation. As FGM is considered a crime, professionals aware of an actual or impending incident are therefore subject to **mandatory notification** (article 450 of the Criminal Code; articles 262 + 355 of the Civil Procedure Act; Organic Act 1/1996).<sup>20</sup>

#### **4. Most Common IGM Forms advocated and perpetrated by Spain**

Despite above mentioned commitments and regional laws to protect intersex children, **to this day, in Spain all forms of IGM practices remain widespread and ongoing**, persistently **advocated, prescribed and perpetrated** by state funded University and Public Children’s Clinics, and paid for by the **Spanish National Health System (SNS)**.

**Currently practiced forms of IGM in Spain include:**

##### **a) IGM 3 – Sterilising Procedures:**

**Castration / “Gonadectomy” / Hysterectomy /  
Removal of “Discordant Reproductive Structures” / (Secondary) Sterilisation  
Plus arbitrary imposition of hormones**<sup>21</sup>

The **Spanish Association of Urology (“Asociación Española de Urología (AEU)”)** endorses the **2022 Guidelines of the European Association of Urology (EAU)**,<sup>22</sup> which include the current **ESPU/EAU “Paediatric Urology” Guidelines 2022**<sup>23</sup> of the European Society for Paediatric Urology (ESPU) and the European Association of Urology (EAU) which stress:<sup>24</sup>

*“Individuals with DSD have an increased risk of developing cancers of the germ cell lineage, malignant germ cell tumours or germ cell cancer in comparison with to the general population.”*

Further, regarding *“whether and when to pursue gonadal or genital surgery”*,<sup>25</sup> the Guidelines refer to the *“ESPU/SPU standpoint on the surgical management of Disorders of Sex Development (DSD)”*,<sup>26</sup> which advocates “gonadectomies”:

*“Testes are either brought down in boys or removed if dysgenetic with tumour risk or in complete androgen insensitivity syndrome or 5 alpha reductase deficiency. Testicular prostheses can be inserted at puberty at the patient’s request.”*

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20 <https://uefgm.org/index.php/legislative-framework-es/>

21 For general information, see 2016 CEDAW NGO Report France, p. 47.

<https://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

22 <https://uroweb.org/guidelines/endorsement/>

23 <https://d56bochluxqnz.cloudfront.net/documents/full-guideline/EAU-Guidelines-on-Paediatric-Urology-2022.pdf>

24 Ibid., p. 89

25 Ibid., p. 88

26 P. Mouriquand, A. Caldamone, P. Malone, J.D. Frank, P. Hoebeke, “The ESPU/SPU standpoint on the surgical management of Disorders of Sex Development (DSD)”, *Journal of Pediatric Urology* vol. 10, no. 1 (2014), p. 8-10, [http://www.jpurology.com/article/S1477-5131\(13\)00313-6/pdf](http://www.jpurology.com/article/S1477-5131(13)00313-6/pdf)

Also, the “2016 Global Disorders of Sex Development Consensus Statement”<sup>27</sup> refers to the “ESPU/SPU standpoint”, advocates “gonadectomy” – even when admitting “low” cancer risk for CAIS (and despite explicitly acknowledging CRC/C/CHE/CO/2-4)<sup>28</sup>:

**Table 2.** GCC risk: clinical management

	Male	Female	Unclear gender
Gonadal dysgenesis (45,X/46,XY and 46,XY)	Undescended testes – Orchiopexy with biopsy – Self-examination – Annual ultrasound (post-puberty) Post-pubertal biopsy – Based on ultrasound and results of first biopsy – If CIS becomes GB → gonadectomy <b>Low threshold for gonadectomy</b> if ambiguous genitalia	<b>Bilateral gonadectomy</b> at diagnosis	<b>Low threshold for gonadectomy</b> if ambiguous genitalia  If intact, gonadectomy depends on gender identity
Undervirilization (46,XY: partial AIS, complete AIS, testosterone synthesis disorders)	Undescended testes – Orchiopexy with biopsy – Self-examination – Annual ultrasound (post-puberty)  Post-pubertal biopsy – Bilateral, CIS → gonadectomy/irradiation Repeat biopsy at 10 years of age – Consider <b>gonadectomy</b> to avoid gynecomastia or if on testosterone supplementation	<b>Partial AIS</b> and testosterone synthesis disorders – <b>Prepubertal gonadectomy</b>  <b>Complete AIS – Postpubertal gonadectomy</b> or follow-up – GCC risk low, allow spontaneous puberty	Partial AIS and testosterone synthesis disorders – Bilateral biopsy  – <b>Low threshold for gonadectomy</b> Intensive psychological counseling and follow-up
No data are available on the value of cryopreservation or safety if a precursor lesion for GCC is present.			

**Source:** Lee et al., in: *Horm Res Paediatr* 2016;85:158-180, at 174

Accordingly, the current **DSD Guidelines** by the “DSD Working Group” of the **Spanish Society of Paediatric Endocrinology (SEEP)**<sup>29</sup> unchangingly promote “prophylactic gonadectomy” (p. 44–46):

*“In Complete Androgen Insensitivity (CAIS) without residual receptor activity, the rate of malignant tumors is low. [...] [T]he general recommendation is prophylactic gonadectomy in late puberty. [...] Having decided to perform a gonadectomy in these patients, the need for hormone replacement treatment should be discussed with the family and patient. In general, the doses of estrogen needed to maintain bone mass and prevent symptoms of estrogen deficiency are higher than those used in menopause, and should be adapted to each patient.”*

#### **b) IGM 2 – “Feminising Procedures”: Clitoris Amputation/“Reduction”, “Vaginoplasty”, “Labiaplasty”, Dilatation<sup>30</sup>**

The Spanish Association of Urology (“Asociación Española de Urología (AEU)”) endorses the **2022 Guidelines of the European Association of Urology (EAU)**,<sup>31</sup> which include the current **ESPU/EAU “Paediatric Urology” Guidelines 2022**<sup>32</sup> of the European Society for Paediatric Urology (ESPU) and the European Association of Urology (EAU). In **chapter 3.17 “Disorders of sex development”**,<sup>33</sup> despite admitting that “Surgery that alters appearance is not urgent”<sup>34</sup> and that “adverse outcomes have led to recommendations to delay unnecessary [clitoral] surgery to

27 Lee et al., “Global Disorders of Sex Development Update since 2006: Perceptions, Approach and Care”, *Horm Res Paediatr* 2016;85:158–180, <https://www.karger.com/Article/Pdf/442975>

28 Ibid., at 180 (fn 111)

29 available at [https://www.seep.es/images/site/home/GUIA\\_MANEJO\\_ADS\\_DSD\\_SEEP.PDF](https://www.seep.es/images/site/home/GUIA_MANEJO_ADS_DSD_SEEP.PDF)

30 For general information, see 2016 CEDAW NGO Report France, p. 48.

<https://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

31 <https://uroweb.org/guidelines/endorsement/>

32 <https://d56bochluxqnz.cloudfront.net/documents/full-guideline/EAU-Guidelines-on-Paediatric-Urology-2022.pdf>

33 Ibid., p. 86

34 Ibid., p. 88

an age when the patient can give informed consent”,<sup>35</sup> the ESPU/EAU Guidelines nonetheless explicitly **refuse to postpone non-emergency surgery**, but in contrary **insist to continue with non-emergency genital surgery** (including partial clitoris amputation) on young children based on *“social and emotional conditions”* and **substituted decision-making by “parents and caregivers implicitly act[ing] in the best interest of their children”** and making *“well-informed decisions [...] on their behalf”*, and further **explicitly refusing “prohibition regulations”** of unnecessary early surgery,<sup>36</sup> referring to the 2018 ESPU Open Letter to the Council of Europe (COE),<sup>37</sup> which further invokes **parents’ “social, and cultural considerations”** as justifications for early surgery (p. 2).

Accordingly, the **Madrid University Children’s Hospital La Paz’s** current *“Formative Itinerary Paediatric Surgery”*<sup>38</sup> lists under “PAEDIATRIC GYNAECOLOGY SURGERY” (p. 14, p. 15 in PDF):

*“Procedures on female external genitalia*

*Treatment of: labial synechiae.*

*Clitoral hypertrophy. Correction of intersexual stages.”*

An April 2019 presentation by paediatric surgeons and urologists from the **Madrid University Children’s Hospital La Paz**<sup>39</sup> about *“long-term surgical results”* of feminising procedures on 33 CAH patients operated on 1977-2012 came to the following

**“CONCLUSIONS**

*Glans reduction in CAH patients cause a decrease in genital sensitivity. The surgical consequences for sexual and social development in this condition should lead us to a multidisciplinary, more conservative management.”*

In other words, the surgeons indirectly admit that a *“more conservative management”* regarding IGM 2 is **not the actual status** also at the Madrid University Children’s Hospital La Paz – despite that IGM has been formally outlawed in Madrid since 2016 (see p. 9).

Also, the **Barcelona Children’s University Hospital Vall d’Hebron** which self-describes its department of *“Paediatric Urology”* as *“a pioneer in the treatment of sexual differentiation disorders at the paediatric age”*, offers on its homepage *“Partial clitoridectomies”*, *“Sigmoid vaginoplasty”*, *“Perineal and abdominoperineal vulvovaginoplasty”* and *“Surgical treatment of sexual differentiation anomalies”*.<sup>40</sup>

Also, at the **Murcia University Hospital “Virgen de la Arrixaca”**, the chief of paediatric surgery **Dr Gerardo A. Zambudio** publicly advocates *“feminising surgical techniques”*, namely

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35 Ibid., p. 88

36 Ibid., p. 89

37 [https://www.espu.org/images/documents/ESPU\\_Open\\_Letter\\_to\\_COE\\_2018-01-26.pdf](https://www.espu.org/images/documents/ESPU_Open_Letter_to_COE_2018-01-26.pdf)

38 <https://www.comunidad.madrid/hospital/12octubre/file/5544/download?token=GqK9FrzO>

39 30th ESPU, 25.04.2019, Session 9: DSD. Javier SERRADILLA RODRIGUEZ, Alba BUENO JIMÉNEZ (Children’s Hospital La Paz, Paediatric Surgery); Susana RIVAS VILA, María José MARTÍNEZ URRUTIA, Roberto LOBATO, Solon CASTILLO, Virginia AMESTY and Pedro LÓPEZ PEREIRA (Children’s Hospital La Paz, Paediatric Urology): "LONG-TERM SURGICAL RESULTS IN CONGENITAL ADRENAL HYPERPLASIA"

40 <https://www.vallhebron.com/en/specialities/paediatric-urology>

partial clitoris amputation and “vaginoplasty” on “girls” diagnosed with Congenital Adrenal Hyperplasia (CAH), on his private homepage “Uropediatria.com”.<sup>41</sup>

### c) IGM 1 – “Masculinising Surgery”: Hypospadias “Repair”<sup>42</sup>

The Spanish Association of Urology (“Asociación Española de Urología (AEU)”) endorses the **2022 Guidelines of the European Association of Urology (EAU)**,<sup>43</sup> which include the current **ESPU/EAU “Paediatric Urology” Guidelines 2022**<sup>44</sup> of the European Society for Paediatric Urology (ESPU) and the European Association of Urology (EAU). In **chapter 3.6 “Hypospadias”**,<sup>45</sup> the ESPU/EAU Guidelines’ **section 3.6.5.3 “Age at surgery”** nonetheless explicitly promotes, **“The age at surgery for primary hypospadias repair is usually 6-18 (24) months.”**<sup>46</sup> – despite admitting to the **“risk of complications”**<sup>47</sup> and **“aesthetic[...]”** and **“cosmetic”** justifications.<sup>48</sup>

Accordingly, the **Madrid University Children’s Hospital La Paz’s** current **“Formative Itinerary Paediatric Surgery”**<sup>49</sup> lists under **“PAEDIATRIC UROLOGY SURGERY”** (p. 13, p. 14 in PDF):

**“Treatment of diseases of the penis.**

*Congenital malformations of the penis. Curved penis. Hypospadias.”*

The **Barcelona Children’s University Hospital Vall d’Hebron** self-describes its department of **“Paediatric Urology”** as **“a pioneer in the treatment of sexual differentiation disorders at the paediatric age”**, and offers on its homepage **“Hipospadias correction techniques: Mathieu, Snodgrass, Onlai, Duckett, oral or bladder mucous in interscrotals. Meatotomy. Nesbitt technique”** and **“Surgical treatment of sexual differentiation anomalies”**.<sup>50</sup>

The **2018 ECE Annual Meeting** (20th European Congress of Endocrinology) was held in **Barcelona**, with a **“Symposium 30: Disorders of Sexual Development (DSD)”** chaired by local paediatric endocrinologist Laura Audi, promoting early **“[s]urgical repair”** as the rule and the **“late surgery and the no surgery alternatives [which] have been recently proposed”** as a secondary **“choice”**.<sup>51</sup>

Also, at the **Murcia University Hospital “Virgen de la Arrixaca”**, the chief of paediatric surgery **Dr Gerardo A. Zambudio** publicly advocates early, unnecessary **“hypospadias repair”** explicitly with psychological indications, on his private homepage “Uropediatria.com”.<sup>52</sup>

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41 <http://www.uropediatria.com/uropediatria/tratamiento-genitales-ambiguos/>

42 For general information, see 2016 CEDAW NGO Report France, p. 48-49,

<https://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

43 <https://uroweb.org/guidelines/endorsement/>

44 <https://d56bochluxqnz.cloudfront.net/documents/full-guideline/EAU-Guidelines-on-Paediatric-Urology-2022.pdf>

45 Ibid., p. 26

46 Ibid., p. 27

47 Ibid., p. 27

48 Ibid., p. 27

49 <https://www.comunidad.madrid/hospital/12octubre/file/5544/download?token=GqK9FrzO>

50 <https://www.vallhebron.com/en/specialities/paediatric-urology>

51 ECE 2018, Symposium 30: Disorders of Sexual Development (DSD), presentation by Nicolas Kalfa, “Atypical Genital Development and Hypospadias: a Pediatric Urology perspective from Etiology to Surgery, for abstract see <http://programme.bioscientifica.com/ece2018?q=Symposium+30&view=search>

52 <http://www.uropediatria.com/uropediatria/tratamiento-moderno-del-hipospadias/>

*“Classical treatment of hypospadias delayed treatment until 3-5 years of age. They usually use catheters for 7 days with bed rest for the child during this time.*

*Modern hypospadias treatment recommends an earlier age of operation, **between 6-18 months** because there are **psychological advantages**. Postoperative management in terms of dressings, bandages, catheterisation etc. is simpler at this early age. Surgery can now be performed on an outpatient basis without hospitalisation.”*

Also, the **Sevilla University Hospital “Virgen Del Rocío”** in **Andalusia** in its leaflet for parents **publicly promotes early “hypospadias repair”**, despite admitting the surgery may be “unnecessary” and could be “postponed”, and that there are significant complication rates:<sup>53</sup>

*“In at least 2 out of 10 children there are long-term problems that **require further intervention** (especially in the most severe cases of hypospadias).”*

Also, the **Badajoz Hospital “Quirónsalud Clideba”** in **Extremadura** offers surgery for “hypospadias” on its homepage under “paediatric surgery”.<sup>54</sup>

Also, the “**Paediatric Surgery Training Guide**” of the **Hospital Complex of Navarra** obliges resident doctors to practice “hypospadias repair”.<sup>55</sup> (Further, the guide obliges paediatric surgeons “at least have acquired a solid knowledge” also of “*Intersex states*” and “*Abnormalities of the female external genitalia*”.<sup>56</sup>)

Also, the **private Andromedi clinic** operating in **Sevilla, Madrid and Tenerife (Canary Islands)** offers “hypospadias” surgery on its homepage:<sup>57</sup>

*“The optimal time for hypospadias repair should be in the **first year (12-15 months) of the infant's life**. It is recommended that in any case it should be carried out before the child is aware of its genitalia, to avoid the **psychological implications** that genital surgery could have on the child.”*

## **5. Obstacles to redress, fair and adequate compensation**

Also in **Spain**, the **statutes of limitation** prohibit survivors of early childhood IGM practices to call a court, because persons concerned often **do not find out** about their medical history until much later in life, and **severe trauma** caused by IGM practices often prohibits them to act in time once they do.<sup>58</sup>

Notably, the CRC-CEDAW Joint General Comment/Recommendation No. 18/31 “on harmful practices” **clearly and explicitly stipulates** “that the perpetrators and those who aid or condone such practices are **held accountable**” (para 55 (o)), as well as “**equal access to legal remedies and appropriate reparations in practice**” (para 55 (q)). **Conclusion, this situation is clearly not in line with Spain’s obligations under the Convention.**

53 <https://www.hospitaluvrocio.es/wp-content/uploads/2019/06/hipospadias.pdf>

54 <https://www.quironsalud.es/clideba/es/cartera-servicios/cirugia-pediatria-4560>

55 See p. 9 in document (p. 11 in PDF)

<https://www.navarra.es/NR/rdonlyres/FDB796ED-211E-4F85-8FFC-9CA909D287EF/304836/CIRUGIAPEDIATRICACHN.pdf>

56 Ibid., see p. 8 in document (p. 10 in PDF), No.s 75-77

57 <https://www.andromedi.com/urologia-infantil/hipospadias/>

58 Globally, no survivor of early surgeries **ever** managed to have their case successfully heard in court. All relevant court cases resulting in damages or settlement (3 in Germany, 1 in the USA) were either about surgery of adults, or initiated by foster parents.

## **D. Suggested Questions for the LOIPR**

*The Rapporteurs respectfully suggest that in the LOIPR the Committee asks the Spanish Government the following questions with respect to the treatment of intersex children:*

### **Harmful practices: Intersex children (art. 24(3))**

- **Please provide information on the measures taken to prevent the unnecessary medical or surgical treatment of intersex children, to provide families with intersex children with adequate counselling and support, and to guarantee access to effective remedies for victims subjected to such treatment during childhood, including the statute of limitations for raising a claim against such treatment.**
- **Please provide data, disaggregated by type of intervention, age at intervention, and hospital, on the number of intersex children subjected to non-urgent and irreversible surgical and other procedures.**