



**Additional information provided by the Plataforma de Infancia following the dialogue session between the Spanish State and the Committee on the Rights of the Child.**



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# Non-compliance with the Decisions of the Committee on the Rights of the Child

## On State intervention

With regard to the OPIC cases examined by the Committee, the State argues that Spain carries out sufficient follow-up through the recent [Royal Decree 709/2024](#), which establishes and regulates the coordination, monitoring and participation bodies of the Second National Human Rights Plan. These include a Steering Committee, whose remit includes the approval of follow-up reports containing responses to the recommendations issued by the treaty bodies, and an Interministerial Commission responsible for drafting those follow-up reports, in whose meetings civil society organizations, including NGOs, may participate.

## Concern

While the establishment of the bodies provided for under [Royal Decree 709/2024](#) constitutes a positive step forward, none of the mechanisms created includes functions aimed at ensuring the effective implementation of the decisions adopted by United Nations treaty bodies (articles 3 and 8 of the Decree define the functions of these bodies).

The Royal Decree only regulates the preparation and approval of follow-up reports, but it does not introduce measures to ensure the binding nature or enforceability of such decisions, nor does it recognize the competence of United Nations Committees to issue interim measures. Consequently, it fails to address the structural problem that persists in the Spanish State regarding compliance with the decisions of treaty bodies.

This lack of recognition has a direct impact in practice: the majority of the 17 condemnatory decisions issued by the Committee on the Rights of the Child against Spain have not been implemented, and serious difficulties continue to exist with respect to the effective compliance with interim measures.

## On the concluding observations to Spain

For all of the above reasons, it is therefore proposed to recommend:

- **The amendment of Act 25/2014 of 27 November on Treaties and Other International Agreements**, incorporating safeguards to ensure compliance with the obligations arising from the international treaties of the United Nations system ratified by Spain, as well as with article 10.2 of the Spanish Constitution ([as indicated on page 175 of the 2030 Sustainable Development Strategy](#)).
- **The amendment of Circular 1/2020 of the State Legal Service**, incorporating, for this purpose, the proposal to develop specific protocols for the processing of requests for interim measures by the Committees and for the implementation of the Committees' decisions, ensuring the effective reparation of victims and the adoption of guarantees of non-repetition ([as indicated on page 175 of the 2030 Sustainable Development Strategy](#)).



# Child Poverty

## On State intervention

The State reported the measures that have been promoted since the pandemic, such as the development of the **Minimum Vital Income (IMV)** and the **Childhood Aid Supplement (CAPI)**. Two measures exclusively aimed at lower-income families who must undergo an intense bureaucratic process to access it.

Likewise, the State explained its support for a hypothetical **universal child benefit**.

## Concern

In Spain, according to the [Instituto Nacional de Estadística](#), the risk-of-poverty and social exclusion rates for children exceed 34.1% (29.2% for child poverty alone), affecting more than 2.7 million children. This rate has increased over the past three years, paradoxically at a time when the poverty rate in other age groups has been declining ([Analysis of Plataforma de Infancia](#)). Spain is also one of the countries in Europe that invests the least in family and children benefits (around 1.6% of GDP, compared with a European average of 2.5%) ([EUROSTAT](#)).

With respect to the IMV and the CAPI, although they are already implemented as means to fight severe poverty, they are clearly insufficient given the outcomes and research on the high barriers to access and coverage ([AIREF](#)).

The State explained in its interventions that it shares and supports the development of a universal parental benefit — something that civil society has been calling for — but it is important to explain that such a benefit remains, to date, no more than a government promise. There is no measure currently in progress or under discussion in the Congress of Deputies or in executive action beyond a possible State Pact on the matter.

## On the concluding observations to Spain

For all these reasons, it is proposed to recommend:

- **Establish a universal child benefit through refundable tax credits that allows low-income households to access it.**
- **Increase the percentage of GDP allocated to family and children benefits.**
- **Improve access to the Minimum Vital Income, ensure that it reaches the most vulnerable children and adolescents, align access with the moderate poverty threshold, and guarantee compatibility with minimum income schemes.**
- **Improve the amount of the Childhood Aid Supplement (CAPI), the access system, and awareness of the measure.**



## Shanty settlements

### On State intervention

The Government reported the creation of a housing relocation plan and the establishment of a High Commissioner on this matter with regard to the situation in **Cañada Real**, where between 1,600 and 1,800 children and adolescents are living in conditions of shanty settlements, substandard housing and informal housing.

### Concern

In some areas, extreme situations of poverty persist, such as in the case of Cañada Real, where since 2020 more than 1,800 children have been living without access to electricity, [a situation denounced by the Commissioner for Human Rights of the Council of Europe](#). Moreover, despite the measures mentioned by the Government, the lack of access to electricity remains a reality, and illegal demolitions have taken place, [resulting in convictions of public officials](#).

However, the situation in Cañada Real is not an isolated case. In a research of the [Fundación del Secretariado Gitano](#) it is estimated that, by 2022, more than 23,000 people in Spain were living in substandard housing and shanty settlements, with a clear predominance of the child population. It has been established that 77 % of people living in shanty settlements and substandard housing settlements are Roma, and that 50 % of the total estimated population living in these settlements are children under the age of 16; of these, 40 % are children under the age of 6.

Although this problem is mentioned in the [Roma Strategy for the Equality, Inclusion and Participation](#) and in the recent [Housing Act](#), the fact remains that many settlements persist across several Autonomous Communities, despite the fact that the different administrations have financial mechanisms at their disposal to eradicate these settlements by providing adequate housing alternatives to the affected families.

### On the concluding observations to Spain

For all these reasons, it is therefore proposed to recommend that the State:

- **Activate the necessary policies and resources to eradicate substandard housing and shantytowns within a maximum period of six years, in order to guarantee children's right to adequate housing that allows for their full development.**
- **Increase income thresholds for access to the social electricity tariff, paying particular attention to families with children and adolescents, and automatically grant the benefit to children in situations of vulnerability.**
- **Ensure that all children have access to energy supply, particularly in settlements.**
- **Suspend all evictions of families with dependent children until an adequate housing alternative is available, and ensure monitoring of these processes by child-specialized teams.**



# Children's Associations

## On State intervention

The State reported **Article 22 of the Spanish Constitution recognizes** the right of association, as well as [Organic Law 1/2001 of 22 March \(LODA\)](#) regulates the Right of Association and recognizes the possibility of creating **children's associations**, in addition to specific regulations on **youth and student associations** (Royal Decree 397/1988 of 22 April and Royal Decree 1532/1986 of 11 July).

## Concerns

However, the State did not explain that LODA has not been further developed through regulations specifically for children's associations, which in practice are regulated under the criteria for youth associations. Likewise, the Royal Decree on student associations limits participation to minors under 12 years of age.

Since regulation of youth associations falls under the competence of the Autonomous Communities, an unequal framework exists that does not take into account the participation of children. In practice, the creation of children's associations is not allowed in the official registers, the registers are not adapted, and participation is limited by age. For example, [in Andalusia](#), these associations or youth sections are explicitly prevented from allowing persons under 18 to participate in representative or management bodies.

It is of concern that Spain has no legislation specifically regulating children's associations and their right to associate. [There is a legal vacuum regarding the ability of persons under 14 to associate in general, as well as limitations for children under 12 in student associations](#). Furthermore, the administrations do not provide information or services adapted to children.

## On the concluding observations to Spain

For all these reasons, it is therefore proposed to recommend that the State:

- **Develop specific regulations providing a minimum supplementary framework across the State territory on the forms of association for children, defining the scope of children's associational capacity and the instruments for protection and guarantees for its exercise.**
- **Adapt the obligations of children in exercising their right to associate and of the administrations in fulfilling their public service duties to the cognitive capacities of children, reducing age-based limitations.**
- **Establish specific obligations to promote this right, allowing a qualitative assessment of the public sector's role in fostering it.**



## Use of restraint measures

### On State intervention

The State reported that mechanical restraints are regulated under Article 59.3 of Organic [Law 5/2000 of 12 January](#). In particular, it stated that any mechanical restraint involving the binding of a person to an articulated bed or to a fixed or anchored object is prohibited. It only allows, exceptionally, the binding of the wrists, provided that it is carried out by specialized personnel, under a strict protocol, and only when it is not possible to apply less harmful measures, specifically in the case of detention centres for children in conflict with the law.

### Concern

The current regulations continue to allow the physical restriction of spaces or movements and the immobilization of minors in various types of centers, without clear time limits in all cases:

1. In ordinary child protection centers, where the law does not specify the enabling circumstances nor the maximum duration permitted ([Art. 21 ter.5 LOPJM](#)).
2. In behavioral disorder centers (which are part of the child protection system, not for children in conflict with the law): in certain cases, and without a maximum duration set ([Art. 28.3 LOPJM](#)).
3. In juvenile detention centers, in certain cases and without a maximum duration set ([Art. 59.2 of the Organic Law regulating juvenile criminal responsibility](#)).

Furthermore, the binding of wrists using handcuffs or shackles is allowed:

1. In specialized behavioral centers, for a maximum of one hour ([Arts. 21 ter.5 and 28.3 LOPJM](#)).
2. In juvenile detention centers, without a legally established maximum duration ([Art. 59.2 of the Organic Law regulating juvenile criminal responsibility](#)).

Particularly relevant is the information provided by the [National Mechanism for the Prevention of Torture of the Ombudsman in its 2024 report](#), which includes data on a high number of physical and mechanical restraints still taking place in various juvenile detention centres across Spain. For example, in the La Montañeta Educational Centre for Juvenile Offenders (Las Palmas), physical restraint was applied on 632 occasions, mechanical restraint 235 times, and temporary isolation 98 times. In addition, in another centre, a minor sustained injuries following the use of a restraint measure and was not transferred to a healthcare facility until two days later.

### On the concluding observations to Spain

For all these reasons, it is therefore proposed to recommend that the State:

- **Prohibit all forms of mechanical and pharmacological restraint in all types of centers.**
- **Record all restraint measures used on children, disaggregated by age, sex, type of disability, type of center, duration, reason for the measure, the person requesting it, and the staff member applying it.**



# Violence in the child protection system

## On State Intervention

The State has indicated that the measures intended to ensure that child protection centres function as safe environments are already provided for in [Organic Law 08/2021 of June 4, on comprehensive protection for children and adolescents against violence \(LOPVI\)](#). However, it has not specified which measures are included in the law, nor provided information on their current development and implementation across the autonomous communities.

## Concerns

LOPVI mandates that child protection centres be established as safe environments and equipped with protocols to address violence (Article 53, LOPVI). However, unlike other sectors—such as education, sports, and leisure—which have welfare and protection coordinators in their respective fields, it does not establish a specific protection role. This gap hinders the implementation of protective measures for children and adolescents under guardianship or care, who remain in a particularly vulnerable situation.

While the [Strategy for the Eradication of Violence against Children and Adolescents \(EEVIA\)](#) includes welfare and protection coordinators within child protection centres (3.1.2.1 and 3.1.2.2, EEVIA, p. 31), the lack of regulatory development and implementation by the autonomous communities limits the prevention, detection, and response to violence in this context. Explicit inclusion of these roles in LOPVI would strengthen their mandatory application and ensure consistency across the autonomous communities.

Currently, 17,112 children and adolescents reside in child protection centres in Spain and are particularly vulnerable to violence due to factors such as separation from parents or attachment figures, lack of individualized care, or coming from neglectful or abusive environments. There is a notable lack of specific official data on violence in this context. [Civil society reports](#), incorporating the voices of the children themselves, highlight clear needs: access to welfare and protection coordinators they can easily approach when problems arise, and knowledge of the mechanisms to report or file complaints about violence. These protective measures are currently not in place.

## On the concluding observations to Spain

For all these reasons, it is therefore proposed to recommend:

- **To establish in LOPVI the mandatory creation of a designated welfare and protection coordinator within child protection centres, responsible for ensuring compliance with the provisions of the law and the protocols for the prevention of violence.**
- **To recommend that the autonomous communities integrate this protection role — the welfare and protection coordinator — into their child welfare regulations and ensure its effective implementation in line with the measures established in LOPVI and EEVIA.**





# Age assessment procedure

## On State intervention

The State affirmed that there are currently two bills under consideration to reform the age assessment procedure in line with the Committee's rulings ([CRC/C/79/D/11/2017](#); [CRC/C/81/D/16/2017](#); [CRC/C/82/D/17/2017](#); [CRC/C/83/D/21/2017](#); [CRC/C/81/D/22/2017](#); [CRC/C/83/D/24/2017](#); [CRC/C/83/D/25/2017](#); [CRC/C/85/D/26/2017](#); [CRC/C/82/D/27/2017](#); [CRC/C/85/D/28/2017](#); [CRC/C/85/D/37/2017](#); [CRC/C/85/D/40/2018](#); [CRC/C/86/D/63/2018](#) y [CRC/C/86/D/76/2019](#)).

## Concerns

The procedure sets out in the bills currently before Parliament (stalled in the Parliament since December 2024) does not fully comply with the rulings of the Committee on the Rights of the Child, the case law of the Supreme Court, the [recommendations of the Ombudsman](#), or the [guidelines agreed upon in this regard by the Council of Europe](#):

1. **It does not give probative value to authentic documentation from the countries of origin.** Article 781 ter 2) of the bill states: *“Proceedings shall not be initiated when there are documents proving a person’s age. However, persons and entities entitled to initiate proceedings may challenge documents proving age in their written request to initiate proceedings, both on the grounds of lack of probative value regarding the facts it contains”*.

The possibility of allowing the documentation to be challenged on the grounds of “lack of probative value regarding the facts it contains” opens the door to continuing to initiate proceedings against children with documentation issued by their countries of origin, as it is not considered reliable, despite its authenticity (not manipulated or falsified) and having been issued in accordance with the legal procedures established in that State.

2. **The configuration of the procedure as urgent** (Article 781 quarter), **without a hearing for arguments, together with the difficulty and exceptional nature of the review of judgments in the event that identity documentation is obtained after the end of the procedure, which can only be reviewed by the Supreme Court, as the judgment has the effect of res judicata** (Article 781 decies), **generates great legal uncertainty.**

## On the concluding observations to Spain

For all these reasons, it is therefore proposed to recommend:

- **Approving the new judicial procedure for assessing age, ensuring that documentation from the country of origin is considered valid, except in cases of lack of authenticity; the establishment of a procedure that guarantees the rights of unaccompanied children and adolescents; the primacy of the principle of presumption of minority; and the provision of an appeal against the denial of precautionary measures to protect the alleged minor.**



## Free legal aid

### On State intervention

The State explained that [Organic Law 08/2021 of June 4, on comprehensive protection for children and adolescents against violence](#), establishes in Article 14 the right of child and adolescent who are victims to free legal aid.

### Concerns

The right to free legal aid is broadly covered by Article 14 of Law 08/2021 of June 4, on comprehensive protection for children and adolescents against violence, in accordance with the provisions of Article 2 of [Law 1/1996, of January 10, on free legal aid](#) (which clarifies its scope of application).

However, [Organic Law 1/2025 of January 2 on measures relating to the efficiency of the Public Justice Service](#) introduces, without any justification, in its tenth final provision, an amendment to Article 2.h of the Law on Free Legal Aid. This provision excludes children who are victims of homicide, injuries under Articles 149 and 150, habitual abuse under Article 173.2, and crimes against freedom from receiving free legal aid.

Therefore, following this reform, children who are victims of various crimes are not recognized as having the right to free legal aid. It is essential that children and adolescents who are victims of any type of violence have a lawyer from the moment the complaint is filed, to help them formulate it, request precautionary protection measures, if applicable, and inform them of their rights and how to exercise them.

### On the concluding observations to Spain

For all these reasons, it is therefore proposed to recommend:

- **Ensuring effective compliance with the right to immediate free legal assistance for children who are victims of violence, in accordance with Article 14 of the Organic Law 08/2021. Amending Law 1/1996 of January 10 on free legal aid to include cases in which they are victims of homicide, injuries under Articles 149 and 150, habitual abuse under Article 173.2, and crimes against freedom.**



# Child-friendly justice

## On State intervention

The State explained [that Organic Law 1/2025 of January 2 on measures to improve the efficiency of the Public Justice Service](#) provides for the creation of judicial sections dealing with violence against children, in order to guarantee specialized justice for child victims. In addition, the State explained that three judicial sections have already been set up in Madrid, Barcelona, and Malaga, but that others are expected to be set up in other locations depending on the number of cases and the needs that are identified.

Following the Committee's request for further clarification on the functioning of the judicial sections and the possible overlap of competences between the sections dealing with violence against children and those dealing with violence against women, the State did not clarify how the decision to establish only three judicial sections dealing with violence against children had been reached, nor did it provide clarification on this overlap of competences and the legal uncertainty that it may cause.

## Concerns

The sole additional provision of [Royal Decree 422/2025](#) establishes that, as of December 31, 2026, a study of workloads will be conducted to determine whether it is necessary to create more judicial sections dealing with violence against children. However, it must be emphasized that these decisions must be made on the basis of rigorous, objective, and transparent studies of workloads, and that, when studying them, the cases heard by the investigation sections and the violence against women sections must be broken down to determine how many of them involve underage victims of violence, something that, until now, is not done, or at least not in the data made public by the General Council of the Judiciary (such as in the [Justice Reports, data by data](#), or in [criminal data](#)).

Part of this problem may stem from a possible overlap of jurisdiction between the judicial sections dealing with violence against children and those dealing with violence against women, as both, by virtue of Article 89 bis.5 of the [Organic Law on the Judiciary](#), LOPJ (as amended by Organic Law 1/2025), could be competent to hear cases of sexual violence involving girls that have occurred outside of a relationship or former relationship. From the [Regulatory Impact Analysis Report of Royal Decree 422/2025](#), it can be inferred that the Ministry of Justice understands that the judicial sections dealing with violence against women will have jurisdiction over these matters by virtue of the clause contained in Article 89 bis.7 LOPJ. If, when calculating the foreseeable workload of the sections dealing with violence against children, cases of sexual violence against girls have not been taken into account, it will have been concluded that this workload will be significantly lower.

However, the issue of jurisdiction is controversial, and the Provincial Courts have received questions of jurisdiction which, until now, they have been resolving in an inconsistent manner.

## On the concluding observations to Spain

Therefore, it is proposed to recommend:

- **Clarifying jurisdiction in favour of judicial sections dealing with violence against children, through legislative intervention. Spain must end legal uncertainty and promote greater implementation of sections dealing with violence against children.**
- **Ensure that, until more judicial divisions dealing with violence against children are created, the possibility provided for in Article 89 bis.1 of the Organic Law on the Judiciary (LOPJ) must be used to designate, in the various courts of first instance,**



**investigating divisions dedicated exclusively to these matters, as has already been done with Investigating Division No. 3 of the Court of First Instance of Las Palmas de Gran Canaria, which had already been exercising this specialization since 2022.**



## Children's rights in gender-based violence cases

### On State intervention

The State explained that they are working on a [Draft Bill on measures to address vicarious violence](#). They argued that it is essential to legally define this violence as a manifestation of gender-based violence, adding that children are often instrumentalized as victims in the context of gender-based violence.

### Concerns

The concept of “vicarious violence” refers to secondary, indirect and collateral violence perpetrated against children with the sole aim of harming their mother. Its meaning is framed in terms of the suffering and harm caused to women, and the child is blurred, forgetting that they are right-holders and direct victims of gender-based violence. Using this terminology therefore contributes to, and encourages, the risk of relegating children and adolescents who suffer violence directly to the background, making them almost invisible.

The violence suffered by children is direct, and its aim is not only because their mothers are victims of gender-based violence, but also because they are under 18 years of age and therefore extremely vulnerable to violence. We must not lose sight of the vulnerability of children, nor the child-rights perspective, nor the fact (legally established through [Organic Law 08/2021](#)) that they are not instrumentalized victims, but direct victims. Making the child-rights perspective invisible is detrimental to the recognition of children's rights and their access to relevant specialized services and resources.

### On the concluding observations to Spain

Therefore, it is proposed to recommend:

- **To include the child-rights perspective and the focus on the rights of children and in all policies and regulations related to gender-based violence. In particular:**
  - It should be borne in mind that children are direct victims of gender-based violence (as recognized in [LO 06/2021](#)), and therefore the use of concepts such as “vicarious violence” and its definition may be detrimental to their recognition as direct victims.
  - The violence that children suffer in the context of gender-based violence occurs, in part, because they are the children of women who are victims of gender-based violence, but also because they are under 18 years of age and therefore extremely vulnerable to violence. It is therefore extremely important to include the child-rights perspective and the rights of the child.



# Safeguards in the procedure for the separation of children from their families

## On State intervention

It is noted that, despite questions on this matter by the Committee on the Rights of the Child, the State neither responded to nor addressed this issue in its intervention.

## Concern

In Spain, the procedure for the withdrawal of guardianship is administrative, which constitutes an exception within the Spanish legal system. In all other cases, decisions regarding ordinary guardianships, custody, and parental care arrangements are judicial, except when the Administration itself assumes the guardianship, effectively acting as both judge and party. That is, the family sphere in Spanish law is governed by civil rules, except in cases where the Administration withdraws guardianship.

Beyond this exception, the Spanish legislative framework has serious shortcomings in child protection procedures, leaving families, children, and adolescents in a situation of vulnerability, as there are insufficient guarantees to ensure that their voices are heard in the face of administrative actions that have such significant consequences for their lives.

In its [Concluding Observations of 5 March 2018](#), the Committee on the Rights of the Child already recommended that Spain ensure that, in all cases, a judge makes or reviews decisions regarding the separation of a child from their family, and that this occurs only after a thorough assessment of the child's best interests in each particular case (para. 28(b)).

Similarly, [the Ombudsman, in its 2022 annual report](#), highlighted the relevance of “*reiterating, as in previous annual reports, the need to address, through legislative means and after consultation with the relevant authorities, a strengthening of legal safeguards in processes through which the Administration must issue a declaration of neglect and assume guardianship of the child, separating them from their parents. Such reinforcement of safeguards could take the form of an urgent judicial ratification procedure, in which the judicial authority initially and provisionally verifies the appropriateness of the decisions taken, without prejudice to further review or challenge in subsequent proceedings.*”

## On the concluding observations to Spain

For all these reasons, it is therefore proposed to recommend that the State:

**Strengthen the legal safeguards in procedures for the separation of children from their families, ensuring the rights of the child throughout the process, particularly the right to be heard, the assessment of the child's best interests, and the minimum procedural guarantees.**



## Non-discrimination - LGTBIQ+ children

### On State intervention

The government referred to [Law 4/2023](#), for real and effective equality for transgender people and to guarantee the rights of LGTBI people. This law contains provisions to protect LGTBIQ+ children within the scope of the state's powers, which are limited in areas such as education and health.

### Concerns

However, the State did not address setbacks that have occurred at the regional level. Most of the autonomous communities had their own laws protecting and promoting the rights of LGTBIQ+ persons, including children, before Law 4/2023 was passed. However, in recent years, two autonomous communities have reformed these laws to reduce their scope of protection: the Community of Madrid, through Laws [17/2023](#) and [18/2023](#), which reformed [Laws 2/2016](#) and [3/2016](#), respectively, and the Valencian Community, which reformed its [Law 8/2017](#) through [Law 5/2025](#).

These laws do not recognize diversity and gender equality as part of human rights, as can be understood from reading their preambles. Of particular concern for children is that they seek to remove issues of sexual and gender diversity from educational programs (thus introducing a parental veto policy, the so-called pin parental, by law), from protocols for protection against school violence, and from teacher training.

With regard to issues relating to gender transition and gender identity in children, they are not treated as rights-holders, since, although their right to be heard is formally recognised, this right is ultimately overridden by the views of parents, social services, health services, or by expert opinions obtained for that purpose.

These laws have also been passed in the respective parliaments through emergency procedures and without prior administrative processing, severely limiting public and child participation.

The Spanish government and the Ombudsman filed [appeals of unconstitutionality](#) with very limited scope regarding the Madrid laws, which are still pending and refer only to certain issues relating to healthcare, education, and people in vulnerable situations. Regarding the Valencian law, the government announced an appeal.

### On the concluding observations to Spain

For all these reasons, it is therefore proposed to recommend that the State:

- **Review and reverse the existing regional legislative framework that does not recognize diversity and gender equality as part of human rights.**
- **Develop coordination mechanisms and ensure that similar legislative initiatives are not replicated in other autonomous communities.**



## Non-discrimination against migrant children in an irregular situation in sports

### On State intervention

Regarding the fight against discrimination, the State referred to the adoption of Law 15/2022 on equal treatment and non-discrimination, explaining that it establishes that rights cannot be conditioned by nationality, age, administrative status, disability, or any other personal or social circumstance. Similarly, the State referred to the regulatory framework that allows for the prosecution of hate crimes.

### Concerns

However, the State did not refer to [Law 39/2022 on Sport](#), which currently discriminates against and violates the rights of migrant children in an irregular administrative situation.

This law recognizes in its preamble that sport and physical activity are essential and that everyone has the right to engage in physical activity and sport. Article 2.2 of the law itself establishes that the General State Administration shall promote physical activity and sports as essential elements of health and personal development, facilitating the exercise of the right to engage in such activities for all persons.

However, it establishes differences in treatment and violates the rights of children without legal residence. Articles 9, 48.3, and 49.5 limit their access to participation and competition in federated sports activities, preventing them from enjoying the same opportunities as their peers due to administrative procedures that do not put their well-being at the centre.

These restrictions also affect other groups such as people in Spanish territory for a period of no more than 90 days, foreign students, and children and adolescents seeking asylum. This is because Articles 29, 30, and 30 bis of [Organic Law 4/2000](#), of January 11, on the rights and freedoms of foreigners in Spain and their social integration, provide an authentic interpretation of the difference between the concept of residence and that of stay, limiting residence to foreigners who are in Spain and hold a residence permit.

It is important to mention that the Spanish Ombudsman has made repeated recommendations to amend this rule in order to eliminate these discriminatory restrictions.

### On the concluding observations to Spain

For all these reasons, it is therefore proposed to recommend that the State:

- **Amend Law 39/2022 on Sport so that it does not discriminate against children without legal residence, allowing them to participate in federation competitions.**





## Roma children

### On State intervention

The State highlights that the [National Strategy for Roma Equality, Inclusion, and Participation \(2021-2030\)](#) recognizes that Roma children and adolescents face a combination of disadvantages linked to poverty, social exclusion, and educational segregation. The State also mentioned the [Strategic Plan for Inclusive Education](#), which aims to develop educational policies that respond to the realities of all children.

### Concern

Although the Organic Law Amending the Organic Law of Education (LOMLOE, by its Spanish acronym) and the National Strategy for the Roma People explicitly prohibit school segregation and promote inclusiveness in the education system, the reality is very different. According to [the study on the educational situation of Roma students of Fundación Secretariado Gitano](#), one in three Roma students attends segregated schools. Of these, 64% attend schools with extreme segregation, in other words, schools or classrooms where a significant proportion of the student body is immigrant or Roma. School segregation is a serious problem, as evidence shows that it is associated with greater inequalities in learning, increased discrimination and stigma, and a higher risk of dropping out of school, which directly undermines equal opportunities.

Roma children do not fully enjoy the right to education from the start of their educational trajectory. The school enrolment rate at age two is 35 points lower than that of the child population as a whole: Roma children attend preschool four times less than the rest. For 5-year-olds, the net enrolment rate is 17.3 points below the average.

In addition, Roma students have a school failure rate of 60% and an early school leaving rate of 86.3%. The educational inequality gap between Roma children and children as a whole is very high and will persist if strong measures are not taken to correct this situation. Currently, there are no specific plans aimed at ensuring the educational success of Roma students or reversing school segregation.

### On the concluding observations to Spain

For all these reasons, it is therefore proposed to recommend that the State:

- **Guarantee access to early education. We call for a specific support program that can effectively reach Roma households with assistance to inform, raise awareness, alleviate fears, and resolve the bureaucratic difficulties of the process.**
- **Develop a National Plan to reduce school failure and early school leaving rates among Roma children living in poverty, with adequate resources for prevention, intervention, compensation, and support, including specific study grants, academic reinforcement measures, and socio-educational guidance for students and their families.**



## Early care and disability

### On State intervention

The State does not provide specific information regarding measures to ensure access to health services and early intervention for children with disabilities and special needs.

### Concern

Today, there is concern about long waiting lists, response times for accessing early care services, and the complexity of the procedures required to access them. ([Report by the Spanish Federation of Early Care Professionals Associations](#)).

Another concern is the limitations that children with unilateral hearing loss face when accessing healthcare services, as current criteria exclude children with unilateral hearing loss from receiving hearing aids, unlike other external prostheses, for which there are no restrictions if only one limb is affected or both, as reflected in the [Royal Decree on the classification of prostheses other than limb prostheses, hearing aids and other replacement external components of surgical implants for the computerised system for receiving communications on orthopaedic products to the National Health System](#).

### On the concluding observations to Spain

For all these reasons, it is therefore proposed to recommend that the State:

- **Invest the necessary resources to reduce waiting lists for early intervention, both for conducting initial needs assessments and for providing services.**
- **Eliminate existing discrimination in the National Health System with regard to hearing aids.**



## Education – Environment

### On State intervention

The State does not provide information regarding the question of what specific measures are being taken to improve environmental health in schools, green spaces, noise and environmental pollution, and the stress this causes for children.

### Concern

Despite the warnings issued by the [World Health Organization](#), the government has failed to adopt concrete measures to prevent the impact suffered by both teachers and students in school environments where they are exposed to sustained noise levels that exceed these recommendations and have serious consequences for their health, as documented in the report [“Air Quality in Particularly Sensitive Areas: School Environments and Health Centres”](#) (Clean Cities). Moreover, Spain ranked as [the third country losing the most instructional time due to classroom “noise”](#), according to the 2024 Teaching and Learning International Survey (TALIS)—is thereby exacerbating the risk of chronic stress and mental health problems, particularly among children with hearing impairments.

Furthermore, [public schools in Spain are on average more than 25 years old](#) (Escuelas Renovadas). In many cases, these buildings were constructed without the energy efficiency criteria currently in force and, in addition, have not been properly maintained. The efforts currently being made to improve the energy efficiency of school buildings are insufficient and are not being implemented as quickly as the situation requires.

Additionally, [in many cases, school playgrounds continue to be concrete surfaces similar to those that existed decades ago](#) (Bofill Foundation), which has particularly harmful consequences for children during periods of high temperatures and increasingly frequent heat waves.

### On the Concluding Observations to Spain

For all these reasons, it is therefore proposed to recommend that the State:

- **Incorporate specific measures to improve the environmental health of schools and reduce noise in educational facilities.**
- **Adopt measures for the prevention and care of hearing health in educational centers.**
- **Renovate primary and secondary schools through regional and local public building renovation programs, reserving a minimum of 30% of funds for this purpose so that buildings and classrooms have adequate heating and cooling.**
- **Increase investment at the state, regional, and local levels aimed at the renaturation of school playgrounds.**

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