

Responses to Recommendations

SPAIN

Review in the Working Group: 05 May 2010
 Adoption in the Plenary: 21 September 2010

Spain's responses to recommendations (as of 13.01.2011):

In the Report of the Working Group:	In the Addendum:	During the plenary:	Summary:
85 REC accepted; 18 rejected; 34 pending	Out of the 34 pending, 13 are accepted and 21 rejected	No additional information provided	Accepted: 98 Rejected: 39 No clear position: 0 Pending: 0

List of recommendations contained in Section II of the Report of the Working Group A/HRC/15/6:

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

- A - 1. Achieve the maximum implementation of the Human Rights Plan for 2008- 2012 (Russian Federation);
- A - 2. Adopt further measures to provide members of the police, prison and judicial staff with human rights training with specifically focused on protection of human rights of women, children, ethnic or national minorities, and also of persons of minority sexual orientation or gender identity (Czech Republic);
- A - 3. Adopt specific measures to ensure the protection of the human rights of children of persons in detention or prison and to improve access to education for children with disabilities (Czech Republic);
- A - 4. Take immediate and all necessary steps to modernize its data and communication processes within its judicial branch (Netherlands);
- A - 5. Implement the human rights goals adopted in resolution 9/12 of the Human Rights Council (Brazil);
- A - 6. Put into effect the request for a visit by the Special Rapporteur on the Human Rights of Migrants (Uruguay);

A - 7. Continue its efforts to combat discrimination and violence based on gender, race and ethnic origin, among others (Republic of Korea);

A - 8. Continue its efforts to guarantee the rights of women and to eradicate gender discrimination, and pay special attention to combat gender- motivated violence against migrant women (Belarus);

A - 9. Increase programmes aimed at combating prejudices regarding the role of women in society, in order to complement the legislative and institutional efforts to achieve de jure and de facto equality between men and women (Mexico);

A - 10. Pursue its efforts to combat the persistence of traditional stereotypes regarding the role and responsibilities of women and men, namely by planning awareness-raising campaigns for the media and focused programmes in the education system (France);

A - 11. Intensify media campaigns to strengthen efforts aimed at eliminating stereotyped images of men and women in the family and society (Portugal);

A - 12. Address any remaining barriers to an equal sharing between women and men of paid and unpaid work (Norway);

A - 13. Redouble efforts to diminish the wage gap between men and women and promote a higher representation of women in managerial and decision-making positions both in public administration and in the private sector (Peru);

A - 14. Continue its activities to eliminate racism, xenophobia and other acts of intolerance (Turkey);

A - 15. Step up its efforts to thoroughly investigate all acts of racial violence and punish those responsible appropriately, taking into account that the Committee against torture has expressed concerns about allegations that the authorities' responses to these acts are not always timely or adequate. Also, the Human Rights Committee and the Committee on Economic, Social and Cultural Rights expressed similar concerns (Egypt);

A - 16. Do its utmost to combat racially motivated crimes and to ensure that human rights education is provided to any perpetrators of such offences (Qatar);

A - 17. Take stern and swift action by the authorities on all complaints on the treatment of migrants by the public and private authorities, as well as regular publishing of data and reports about the incidents of racially motivated crimes (Pakistan);

A - 18. Take more effective measures to combat racial discrimination and intolerance, including by collecting and publishing official statistics about incidents on racially motivated crimes and promptly investigating and taking stern action against the perpetrators of hatred, racist and xenophobic acts (Malaysia);

A - 19. Collect statistics on racist and discriminatory incidents, and develop a national plan of action against racism and xenophobia, with an emphasis on social awareness (Uruguay);

A - 20. Collect and publish statistics on hate crimes, and develop a specific national action plan against racism and xenophobia (United States of America);

A - 21. Record and publish official statistics about incidents or reports on racially motivated crimes, and improve the collection of hate-crime data by law-enforcement officials and authorities (Egypt);

A - 22. Strengthen measures to prevent, investigate and punish acts of violence against migrants when they occur, as well as allegations of the mistreatment of this group by some members of the police (Peru);

A - 23. Take more effective measures to eliminate discrimination against non-citizens in relation to working conditions and work requirements, including employment rules and practices with discriminatory purposes or effects; and that legislation prohibiting discrimination in employment and all discriminatory practices in the labour market be fully implemented in practice and that further measures be taken to reduce unemployment among immigrants (Egypt);

- A - 24. Continue its efforts to improve the situation of the Roma population (Slovenia);
- A - 25. Continue its untiring efforts against the execution of the death penalty; and wishes Spain success with the Prime Minister's initiative which is aimed at achieving the immediate abolition of the death penalty for minors and persons with disabilities, and at achieving a global moratorium by 2015 (Bulgaria);
- A - 26. Take steps to improve its ability to prevent torture (Hungary);
- A - 27. Improve measures to ensure the timely detection and investigation of cases of police abuse (Azerbaijan);
- A - 28. Intensify training and information programmes for law enforcement officials to ensure full respect for human rights during the performance of their duties (Malaysia);
- A - 29. Reinforce its efforts to protect the rights of prisoners in police custody, including by duly investigating reports of ill treatment, prosecuting those responsible for confirmed abuses, and taking other appropriate preventive and corrective measures (Canada);
- A - 30. Continue to make efforts to combat gender-based violence (Colombia);
- A - 31. Continue its efforts to curb violence against women and to eliminate their stereotyping role in the society (Bangladesh);
- A - 32. Take more efficient steps to prevent and punish violence against women in all its manifestations (Hungary);
- A - 33. Further strengthen the implementation of some of the provisions of the law on comprehensive protection measures to tackle gender-based violence (Malaysia);
- A - 34. Build on its work to tackle gender-based violence, including through Basic Law 1/2004, and measures recently introduced to allow women who are illegal migrants to report acts of violence without fear of personal disadvantage (United Kingdom);
- A - 35. Accelerate efforts, under the Organization Act No. 1/2004 on comprehensive protection measures against gender-based violence, to facilitate access to medical and legal services for women in distress across Spain, particularly within immigrant communities (Canada);
- A - 36. Continue to adopt all legislative and executive measures against gender-based violence, with special attention to migrant victims (Italy);
- A - 37. Redouble its efforts to tackle the issue of violence against women, including domestic violence, by, for example, creating layers of legislative measures to safeguard victims as well as strengthening the overall implementation of relevant measures on this issue (Japan);
- A - 38. Consider the possibility to amend the criminal code to criminalize the trafficking in human beings for the purpose of sexual exploitation (Belarus);
- A - 39. Consider to adjust its legislation in order to specifically define the trafficking in human beings for the purpose of sexual exploitation (Costa Rica); **2**
- A - 40. Amend existing legislation on human trafficking to include a definition of trafficking in line with international law (Indonesia);
- A - 41. Bring the definition of trafficking in its legislation into line with international law; establish better processes to identify victims; and address the special needs of child victims (New Zealand);
- A - 42. Consider modifying its criminal legislation so that the offence of human trafficking could specifically target trafficking for the purpose of sexual exploitation (France);
- A - 43. Include in its legislation a definition of sex trafficking in line with international law (Australia);

A - 44. Consider utilizing the Recommended Principles and Guidelines on Human Rights and Human Trafficking developed by OHCHR as a reference tool (Philippines);

A - 45. Continue to make efforts to implement and apply the Historical Memory Act (Colombia);

A - 46. Continue its constructive efforts for the promotion of respect, tolerance, better understanding and cooperation among different cultures and religions through initiatives such as the Alliance of Civilizations and the Dialogue among Religions (Pakistan);

A - 47. Redouble its efforts to continue to incorporate into its educational system, at all levels, respect for human rights, especially those related to non-discrimination and tolerance for diversity (Nicaragua);

A - 48. Strengthen the human rights component in school curriculums and education programmes for the public, with special focus on women's rights (Republic of Korea);

A - 49. Continue to address the issue of unaccompanied children arriving in Spanish territories and to consider implementing, as appropriate, the recommendations of UNHCR, human rights treaty bodies and special procedures (Jordan);

A - 50. Strengthen national and local initiatives aimed at protecting and promoting the universal human rights of all migrants and members of their families (Philippines);

A - 51. Continue and intensify the use of best practices in the area of human rights with regard to Spain's migration policies (Portugal);

A - 52. Continue to support the Support Fund for the Admission, Integration and Education of Immigrants, as well as to support the work of various civil society organizations that work in favour of immigrants and that receive public funds to that end (Colombia);

53. Reinforce measures aimed at ensuring, during this period of crisis, effective protection of the human rights of migrants, and take additional measures to guarantee access to economic, social and cultural rights for migrants, who are the primary victims of the high level of unemployment in Spain (Algeria);

A - 54. Take all measures necessary to ensure that actions related to unaccompanied minors (migrants, asylum seekers, refugees, victims of trafficking) are in line with international standards (Uruguay);

A - 55. Enhance its cooperation programmes with developing countries (Philippines);

A - 56. Continue its cooperation with civil society organizations in the follow-up to this review (Austria).

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

A - 1. Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Portugal, Azerbaijan);

A - 2. Provide intensive training to law enforcement officials to ensure that, in the performance of their duties, they respect and protect human dignity and maintain and uphold the human rights of all persons without distinction as to race, colour or national or ethnic origin (Egypt);

A - 3. Take all appropriate steps to ensure the implementation of the Council on Women's Participation, created by Organic Law 3/2007, in view of the important role played by non-governmental organizations and other civil society organizations in the promotion of women's human rights and gender equality, as recommended by CEDAW (Israel);

A - 4. Ensure implementation of the gender equality measures to the rural areas including for the migrant female workers (Pakistan);

A - 5. Formulate and implement a national action plan against racism and xenophobia, with ample participation on the part of civil society and input from the Spanish observatory on racism and xenophobia (Bolivia);

A - 6. Extend and consolidate into a national action plan its measures to combat racism and xenophobia (United Kingdom);

A - 7. Develop a national action plan against racism and xenophobia (Azerbaijan);

A - 8. Widely distribute information on available domestic remedies against acts of racial discrimination and the legal means available for obtaining compensation in the event of discrimination (Egypt);

A - 9. Implement its intentions to adopt a national plan of action on the interests of the Roma population (Russian Federation);

A - 10. Eliminate all forms of discrimination against the Roma community, migrants and religious minorities, and take necessary measures against the perpetrators of racially motivated acts against migrants and ethnic and religious minorities (Bangladesh);

A - 11. Put in place appropriate mechanisms to improve the situation of the Roma minority with respect to access to education, employment and health care (Hungary);

A - 12. Take effective measures to investigate all allegations of serious human rights violations and abuses committed by law enforcement officials and private security guards (Malaysia);

A - 13. Ensure that persons deprived of their liberty have access to their fundamental freedoms at all times (Costa Rica); **3**

A - 14. Adopt educational measures, from childhood, to foster social rejection of violence against women and children and encourage the use of complaints against such cases (Portugal);

A - 15. Ensure that all victims of gender-based violence have effective access to appropriate resources, including legal assistance and protection measures (Austria);

A - 16. Consider treatment of perpetrators of violence against women and other models targeting the aggressor as a complement to other measures (Norway);

A - 17. Include immigrant women in irregular situations in all policies aimed at the prevention of and protection against gender violence (Bolivia);

A - 18. Provide effective access to legal assistance and measures of protection for all victims of gender violence, including migrants with irregular migration status (Uruguay);

A - 19. Bring promptly all detainees before a judge (Netherlands);

A - 20. Ensure the effective enjoyment of the right to education, the right to work and the right to health for members of ethnic minorities and migrants (Cuba);

A - 21. Promote and carry out comprehensive education and training in human rights in the Spanish education system and in programmes for public employees, armed forces and military personnel at every level (Costa Rica);

A - 22. Enact human rights education programmes targeted at fighting racism, xenophobia, and discrimination and violence against women (Philippines);

A - 23. Address, in a comprehensive manner, the rise of negative attitudes towards immigrants as reported in the 2009 Spanish Racism and Xenophobia Report (Austria);

A - 24. Ensure full respect for the rights of migrants, including through the strengthening of measures against acts of racial discrimination, xenophobia and intolerance (Cuba);

A - 25. Strengthen policies that guarantee the human rights of migrant workers (Brazil); **4**

A - 26. Pay particular attention to the vulnerable situation of migrants, especially women in an irregular situation (Slovenia);

A - 27. Take all appropriate measures that serve the interests of the welfare and development of child migrants, who should have been guaranteed all rights provided for in national legislation and international law (Belarus);

A - 28. Strengthen policies that guarantee the prevalence of human rights in combating terrorism (Brazil); **5**

A - 29. Pursue and intensify its cooperation with countries interested in combating the phenomenon of terrorism by strictly respecting its bilateral and multilateral commitments (Algeria);

86. The following recommendations will be examined by Spain, which will provide responses in due course, but no later than the fifteenth session of the Human Rights Council, in September 2010. The response of Spain to these recommendations will be included in the outcome report adopted by the Human Rights Council at its fifteenth session.

R - 1. Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Indonesia, Burkina Faso);

R - 2. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Azerbaijan);

R - 3. Ratify and implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Bolivia);

R - 4. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as a fundamental step towards the protection of human rights (Guatemala);

R - 5. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and, by taking that measure, clearly demonstrate its firm and decisive commitment to protecting migrant groups and to finding solutions to problems that may arise, by fully respecting the fundamental freedoms of those affected (Paraguay);

R - 6. Adhere to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Nicaragua);

R - 7. Pursue its efforts, and continue, to guarantee all human rights; and accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Palestine);

R - 8. Become a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Pakistan);

R - 9. Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Argentina); **6**

R - 10. Consider the ratification of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Peru);

R - 11. Consider ratifying the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families (Nigeria); **7**

R - 12. Reconsider, in the same spirit of openness, the possibility of ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in accordance with paragraph 12.1 of recommendation no. 1737 of 17 March 2006 of the Parliamentary Assembly of the Council of Europe, of which Spain is an active member (Algeria);

A - 13. Recognize the competence of the Committee established under the Convention for the Protection of All Persons from Enforced Disappearance (Argentina);

R - 14. Consider introducing a specific prohibition with respect to the sale of arms when the final destination is a country where children may potentially be recruited or used in hostilities (Slovenia);

R - 15. Consider introducing an earmarked quota for fathers in the parental leave (Norway);

A - 16. Fully cooperate with relevant United Nations treaty bodies by implementing their recommendations pertaining to ending racism, racial discrimination, xenophobia and related intolerance (Egypt);

A - 17. Pursue its efforts related to the fight against racism and xenophobia by establishing, with a calendar for concrete action, a national and complete strategy for combating racism and xenophobia, as announced in its first national Human Rights Plan (Belgium);

A - 18. Undertake a comprehensive set of measures, in practice and law, including developing a national plan of action against racism, to combat racial discrimination against foreigners and religious minorities, in particular Muslims (Islamic Republic of Iran);

R - 19. Clarify the definition of torture in its penal code, and enforce an absolute prohibition of torture under any circumstances (Islamic Republic of Iran);

R - 20. Review the definition of torture in its national law so that it complies fully with that in article 1 of the Convention against the Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Czech Republic);

A - 21. Take additional measures to prevent criminal offences, including assault, by police officers and prison guards from occurring, and ensure that the personal integrity of detainees is guaranteed (Netherlands);

A - 22. Ensure that access to legal assistance upon detention is not delayed, that detainees have the possibility to communicate with a lawyer in private and that they are brought in front of a judge within 72 hours, as stipulated by law (Austria);

A - 23. Respond to all recommendations set out in the report of the Ombudsman relating to the protection of the interests of minors having behavioural problems and in difficult social situations; pay more specific attention to the rights of such minors to have appropriate educational and medical support; and effectively implement an internal common regulation and an efficient inspection system in centres to prevent and combat abuse (Belgium);

A - 24. Strengthen work with the European Union and international partners to combat human trafficking, with a policy of prevention as a priority for its 2009-2012 work plan (Canada);

A - 25. Strengthen the policy of promoting children rights, with special attention to the trafficking in women and children, and consider the implementation of the Guidelines for the Appropriate Use and Conditions of Alternative Care for Children, in accordance with Human Rights Council resolution 11/7 and General Assembly resolution 64/142 (Brazil);

R - 26. Investigate, punish and redress crimes of enforced disappearance, regardless of the time of their occurrence, in the light of the continuous nature of the crime and in accordance with its international obligations (Mexico);

A - 27. Ensure school integration of Roma children, children belonging to immigrant families or children living in socio-economically deprived areas, as expressed by CEDAW, and increase Roma women's awareness and access to services and programmes in education, employment and healthcare, as recommended by CERD, CDESCR, and the CRC (Israel);

A - 28. Respect fully the principle of non-refoulement and ensure effective access to asylum procedures, taking into account the objectives of UNHCR's 10-Point Plan on Mixed Migration (New Zealand);

R - 29. Undertake a review of its readmission agreements with respect to refugees and asylum-seekers, and amend them as necessary to ensure that they contain human rights guarantees in line with international standards (Canada);

A - 30. Consider access to asylum procedures for victims of trafficking (Costa Rica); **8**

R - 31. Adopt measures aimed at ensuring the equal treatment of migrants, regardless of their migratory situation (Argentina); **9**

R - 32. Abolish all laws and regulations discriminating against immigrants (Nigeria); **10**

R - 33. Ensure that all migrants have effective access to services related to economic, social and cultural rights, irrespective of their migration status (Uruguay);

A - 34. Implement the National Ombudsman's call for authorities to ascertain the age of younger immigrants, so that the most appropriate protection can be arranged (United States of America).

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

R - 1. Follow the principle of applying limits on freedoms to those organizations and entities that are involved in spread of hate speech, make xenophobic or defamatory statements and incite discrimination and violence (Pakistan);

R - 2. Undertake immediate steps to establish an independent police complaints mechanism with a mandate to investigate all allegations of serious human rights violations by law enforcement officials in cases such as sexual violence in custody (Islamic Republic of Iran);

R - 3. Consider taking steps to establish an independent police complaints mechanism with the aim to investigate all allegations of serious human rights violations by law enforcement officials (Denmark);

R - 4. Review the compliance of its anti-terrorism legislation allowing for incommunicado detention with international human rights standards (Czech Republic);

R - 5. Review the incommunicado detention regime (Costa Rica); **11**

R - 6. Review the use of incommunicado detention for offences involving terrorists or armed gangs, which may last for up to 13 days (Austria);

R - 7. Address the distinction made between Spanish and foreign nationals to the detriment of the latter group when remanding custody during investigations (Austria);

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

R - 9. Adopt a national plan of action to combat violence against women and girls and to ensure that all victims of gender-based violence have effective access to legal assistance and protection measures (Islamic Republic of Iran);

R - 10. Consider instigating a national plan to combat violence against women and girls, including in relation to human trafficking (Denmark);

R - 11. Develop a national plan of action on eliminating violence against women (Australia);

R - 12. Establish a mechanism guaranteeing the correct identification of victims of the trafficking in persons and provide them with adequate and comprehensive support, especially in the case of minors (Bolivia);

R - 13. Consider the establishment of a national mechanism for the correct identification of victims of sexual exploitation, as well as the possibility of including specific measures for minors (Panama);

R - 14. Establish a national mechanism to identify all victims and take necessary measures to ensure access to the asylum procedure for foreign women who are victims of trafficking, or at the risk of

being trafficked, who can show a need for international protection, as recommended by CEDAW, CRC, and the CESCR, in light of the serious efforts made by the Government of Spain to adopt a Plan to Combat Human Trafficking for the Purposes of Sexual Exploitation (Israel);

R - 15. Reinforce due-process safeguards for detainees imprisoned for conduct allegedly related to terrorism or to the operation of armed groups (Argentina);

R - 16. Continue to pursue open migration policy and regularize existing migrants with irregular status (Bangladesh);

R - 17. Address and provide adequate follow-up to the recommendations of the Special Rapporteur for the protection of human rights and fundamental freedoms while countering terrorism, as a result of his visit to the country, in coordination with relevant ministries and by consulting civil society organizations (Mexico);

R - 18. Thoroughly and independently investigate all circumstances surrounding its involvement in rendition programmes (Islamic Republic of Iran);

Notes

2 The recommendation as read during the interactive dialogue: Consider adjusting its legislation in order to typify specifically trafficking in human beings with purposes of sexual exploitation and consider access to asylum procedures to victims of trafficking.

3 The recommendation as read during the interactive dialogue: Review incommunicado detention regime and ensure that persons deprived of their liberty have at any moment access to their fundamental freedoms.

4 The recommendation as read during the interactive dialogue: Strengthen policies that guarantee the human rights of migrant workers and the prevalence of human rights in combating terrorism.

5 The recommendation as read during the interactive dialogue: Strengthen policies that guarantee the human rights of migrant workers and the prevalence of human rights in combating terrorism.

6 The recommendation as read during the interactive dialogue: Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and adopt measures aimed at ensuring equal treatment of migrants, regardless of their migratory situation.

7 The recommendation as read during the interactive dialogue: Consider ratifying the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families, and abolish all laws and regulations discriminating against immigrants.

8 The recommendation as read during the interactive dialogue: Consider adjusting its legislation in order to typify specifically trafficking in human beings with purposes of sexual exploitation and consider access to asylum procedures to victims of trafficking.

9 The recommendation as read during the interactive dialogue: Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and adopt measures aimed at ensuring equal treatment of migrants, regardless of their migratory situation.

10 The recommendation as read during the interactive dialogue: Consider ratifying the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families, and abolish all laws and regulations discriminating against immigrants.

11 The recommendation as read during the interactive dialogue: Review incommunicado detention regime and ensure that persons deprived of their liberty have at any moment access to their fundamental freedoms.

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