



# Convention on the Rights of the Child

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Committee on the Rights of the Child

Fifty-fifth session

1 September – 13 October 2010

## Consideration of reports submitted by states parties under article 44 of the convention

### Concluding Observations: Spain

1. The Committee considered the combined third and fourth periodic reports of Spain (CRC/C/ESP/3-4) at its 1548<sup>th</sup> and 1550<sup>th</sup> meetings held on 15<sup>th</sup> September, and adopted at its 1583<sup>rd</sup> meeting held on 1 October 2010, the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the State party's combined third and fourth periodic report as well as the written replies to its list of issues (CRC/C/Q/ESP/3-4), which provided a better understanding of the situation in the State party. It expresses appreciation for the presence of a cross-sectoral delegation as well as the frank and open dialogue with the delegation.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with its concluding observations adopted on the State party's initial reports to the Optional Protocol on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict, contained in CRC/C/OPSC/ESP/CO/1 and CRC/C/OPAC/ESP/CO/1 of 17 October 2007.

4. The Committee regrets that no updated information on the implementation of the Optional Protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict was included in the State party report. It reminds the State party, that in accordance with art 12 par. 2 and art. 8 par.2 of the respective Optional Protocols, following the submission of the initial comprehensive report, the State party shall include in the reports they submit to the Committee, in accordance with article 44 of the Convention any further information with respect to the implementation of the protocols.

## **B. Follow-up measures undertaken and progress achieved by the State party**

5. The Committee notes with appreciation the positive developments related to the implementation of the Convention, including, in particular, the adoption of:

- (a) The first National Strategic Plan for Children and Adolescents (2006-2009);
- (b) The second National Action Plan against Commercial Sexual Exploitation of Children and Adolescents (2006-2009);
- (c) The Strategic Plan on Citizenship and Integration (2007-2010);
- (d) Organic Law of June 2010 amending the Criminal Code, extending the scope of the crime of child pornography and defining the crime of sexual cyber-harassment; and
- (e) Organic Law 11/2003 of 29 September on specific measures relating to public safety, domestic violence and social integration of foreigners, which defines the crime of female genital mutilation, as well as Organic Law 3/2005 which allows the extraterritorial prosecution of FGM.

6. The Committee welcomes the ratification of : a) the Convention on the Rights of Persons with Disabilities and its Optional Protocol in December 2007: and b) the Council of Europe Convention on Action against Trafficking in Human Beings in April 2009 and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Abuse in August 2010.

## **C. Main areas of concern and recommendations**

### **1. General measures of implementation (arts. 4, 42 and 44, para. 6 of the Convention)**

#### **Committee's previous recommendations**

7. The Committee welcomes efforts by the State party to implement the Committee's concluding observations on the State party's second report in 2002 (CRC/C/15/Add.185). However, some of the recommendations have not been given sufficient follow up. The Committee notes that those concerns and recommendations are reiterated in the present document.

**8. The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the State party's second periodic report that have not yet been sufficiently implemented, including those related in particular to: coordination, data collection, discrimination, migrant children, unaccompanied foreign children and children deprived of liberty. In this context, the Committee draws the attention of the State party to its General Comment No. 5 (2004) on general measures of implementation of the Convention on the Rights of the Child.**

#### **Legislation**

9. While welcoming the efforts made by the State party to harmonize its legislation with the principles and provisions of the Convention, the Committee notes that laws and regulations applied in autonomous communities differ and are not always consistent with the Convention in important areas, such as the protection of children at risk, neglected or in foster care, or the treatment of unaccompanied foreign children.

10. **The Committee recommends that the State party take all necessary measures to ensure that legislation and administrative regulations in all autonomous communities conform fully to the principles and provisions of the Convention and the two Optional Protocols.**

#### **Coordination**

11. The Committee welcomes the measures and actions taken by the different autonomous communities for the promotion and protection of children's rights. It takes note of the information provided by the State party concerning the existing mechanisms of cooperation and collaboration between the central government and the autonomous communities, including the Social Affairs Sectoral Conference (*Conferencia Sectorial de Asuntos Sociales*), the Inter-autonomous Commission of Directors General for Children and the Observatory for children, but is concerned at the lack of a national level coordination mechanism on children's rights.

12. **The Committee recommends the State party to continue its efforts to enhance an effective and adequate coordination system both at central administration and between the autonomous communities in the implementation of policies for the promotion and protection of the child, as previously recommended.**

#### **National Action Plan for Children**

13. The Committee recognizes the progress that the National Strategic Plan for Children and Adolescents represents and values its preparation process, which included broad participation of institutions and social organizations. It notes however that the partial evaluation conducted in 2008, brought to light some structural and methodological weaknesses, including the lack of additional, specific economic resources to implement the planned measures, and the absence of specific goals and deadlines with respect to objectives and measures.

14. **The Committee recommends that the next National Strategic Plans for Children and Adolescents include necessary resources to enhance effective implementation of the plan, including human and material resources, a more strategic selection of objectives and measures and the definition of goals, timebound and impact indicators, and improved processes for the participation of children and civil society in plan preparation, monitoring and evaluation.**

#### **Allocation of resources**

15. The Committee welcomes the upward trend in budgetary allocation for social sectors up to 2008, including policies and programmes addressing children and adolescent rights, although it notes that difficulties to identify specific allocations for children in the national budget continue to exist. The Committee expresses concern at the absence of children specific items in the plans and budgets being drawn up by the State to address the current crisis which is affecting greatly the State Party, with around 20% unemployment rate, and 25% of children who are in and at risk of poverty. Furthermore, it continues to be concerned at the lack of information on budgetary allocations to children by the autonomous communities.

16. **The Committee urges the State party, taking into account the Committee's recommendations adopted following its day of general discussion in 2007 on resources for the rights of the child - responsibility of States (see CRC/C/46/3) to:**

(a) Utilize a child-rights approach in the elaboration of the State and autonomous communities' budget by implementing a tracking system for the allocation and use of resources for children throughout the budget, thus providing visibility to the investment in

children. The Committee recommends developing child budgets that identify the amount and proportion spent on children at the national, autonomous and local levels in order to evaluate the impact and effect of the expenditures on children.

(b) Ensure that priority budget lines for children are protected from changes in levels of resources in overall budget priorities, and that more specifically those budgetary lines referring to affirmative social measures in favour of children requiring such action are protected even in times of crisis.

#### **Data collection**

17. While recognizing the important role of the Observatory in the field of research, data analysis and collection, the Committee is concerned about the fragmented approach to data collection, which does not cover all areas covered by the Convention and is carried out unevenly at the national and regional levels.

18. **In line with previous recommendations (CRC/C/15/Add. 185), the Committee recommends the State Party to strengthen its mechanism for collecting and analyzing systematically data disaggregate, inter alia, by age, sex, and ethnic background on all persons under 18 for all areas covered by the Convention, with special emphasis on Roma children, migrant children, unaccompanied foreign children, and children of economically and socially disadvantaged households.**

#### **Dissemination and awareness-raising**

19. The Committee notes with appreciation the efforts to educate and inform the public about children's rights in Spain. It welcomes the progress achieved through Organic Law 2/2006 of 3 May on Education, which includes human rights content in primary and secondary education curricula in the subject "Education for citizenship".

20. **The Committee recommends that the State party continue its efforts to ensure that all provisions of the Convention are widely known and understood by adults and children alike. In this regard, the Committee encourages the State party to undertake systematic education programmes on the principles and the provisions of the Convention for the public at large, children, families and professionals that work with children, including judges, lawyers, law enforcement officials, teachers, health-care personnel and social workers.**

#### **International cooperation**

21. The Committee welcomes the strong efforts by the State party to contribute to international cooperation. It notes with appreciation the inclusion of children as a multi-sector priority in the Spanish Cooperation Master Plan 2009-2012. The Committee also expresses appreciation at the State party's growing contributions to OHCHR.

22. **The Committee encourages the State party to maintain and if possible increase the level of international cooperation. The Committee encourages the State party, in its bilateral cooperation to pay particular attention to the Optional Protocols and the concluding observations and recommendations made by the Committee in respect of those countries. The Committee invites the State party to take into account its recommendations issued in 2007 after the Day of General Discussion on "Resources for the Rights of the Child – Responsibility of States".**

## 2. Definition of the child (art.1 of the Convention)

23. The Committee notes that the marriageable age in the State party is 18 years of age. However, the Committee reiterates its concern at the fact that the judge may authorize marriages as low as 14 years of age in exceptional circumstances (CRC/C/15/Add. 185 of 13 June 2002).

24. **The Committee recommends, that the State party review its legislation with a view to increasing the exceptional minimum age of marriage with judge's permission to sixteen years of age, and for it to be only under exceptional cases.**

## 3. General principles (arts. 2, 3, 6 and 12 of the Convention)

### Non-discrimination

25. The Committee welcomes all efforts made by the State party to combat discrimination in its territory, particularly concerning children of Roma origin, children of migrant workers, unaccompanied foreign children and children with disabilities. It welcomes in particular the approval of Strategic Plan for Citizenship and Integration 2007-2010, aimed at guaranteeing access to migrant students to mandatory education and which facilitates integration in the educational system. However, the Committee remains concerned at the obstacles encountered in practice by children of foreigners in irregular situations in educational and health services.

26. **The Committee recommends the State party to continue monitoring the situation of children belonging to the above-mentioned groups, who despite the existing legal framework continue to face discrimination; and develop, on the basis of the results of this monitoring, comprehensive strategy containing specific and well-targeted actions aimed at eliminating all forms of discrimination.**

### Best interests of the child

27. The Committee welcomes the inclusion of the principle of the best interests of the child in legislation as well as its use by judges and magistrates in decisions affecting children. However, the Committee remains concerned about the lack of a uniformed process to determine what constitutes the best interests of the child, as well as the persisting differences in practice in each autonomous community in the understanding and the application of this principle, particularly in cases of non accompanied foreign children, repatriation and adoption processes.

28. **The Committee recommends that the State party:**

(a) **Take all appropriate measures to ensure that the principle of the best interests of the child, guides all central and autonomous government actions and decisions with regard to legal provisions as well as in judicial and administrative decisions which have an impact on children;**

(b) **Assess the impact on the best interests of the child of government actions and decisions in order to further enhance its own understanding - and therefore its guidance - of what constitutes "best interests", as well as provide training to all decisions makers (judges, public officials, legislative bodies etc.).**

### Respect for the views of the child

29. The Committee welcomes the recognition in Spanish legislation of the right to be heard and other children's participation rights. It is concerned however that in certain

circumstances it is still necessary to have recourse to higher courts to obtain recognition for the right of a child to appear independently from his or her legal guardians in a court, in particular in judicial and administrative procedures affecting the child.

30. **The Committee recommends that the State party continue and strengthen efforts to fully implement article 12 of the Convention and promote due respect for the views of the child at any age in administrative and judicial proceedings, including child custody hearings, immigration cases, and in society at large. The Committee also recommends that the State party promote the participation of children, assist them to effectively exercise this right and ensure that due weight is given to their views in all matters that concern them in the family, school, other settings, the community, national policy formulation and in the implementation and evaluation of plans, programmes and policies. The Committee recommends that the State party take into account the Committee's General Comment No. 12 adopted in 2009 on the right of the child to be heard (CRC/C/CG/12).**

#### **4. Civil rights and freedoms (arts. 7, 8, 13-17 and 37(a) of the Convention)**

##### **Access to appropriate information**

31. The Committee welcomes the adoption of the General Law on Audiovisual Communication in March 2010, which contains restrictions on content which may impair the physical, mental or moral development of children. It also notes with appreciation the signature in March 2005 by public and private television broadcasters of a self-regulatory code on television content and children (*Código de Autorregulación sobre los Contenidos Televisivos e Infancia*), which provides for certain parameters of enhanced protection of the juvenile audience. Despite all efforts, the Committee is concerned that public and private televisions do not present sufficient programmes designed for children in high viewing hours by children, and instead including content that is sometimes negative for children development.

32. The Committee recognizes that easy access to new technologies by children has both positive and negative consequences, and that children may be placed in particularly vulnerable situations if no tools are available to them and to their carers to prevent abuse.

33. **The Committee recommends the State Party to:**

(a) **Continue its efforts to promote the existence of a quality media, which contributes to the digital literacy of children;**

(b) **Ensure that public television takes the initiative and leadership to create responsible programming during hours of high viewing by children, giving priority to the development of the child and not to economic profits, including participation of children in the development, content and design of children's programmes;**

(c) **Encourage companies operating in the internet sector to adopt adequate codes of conducts; and**

(d) **Encourage training on secure browsing for children in the internet to children and adults.**

##### **Corporal punishment**

34. The Committee highly welcomes the amendment of art. 154 of the Civil Code on corporal punishment by deleting, in line with the Committee's previous recommendations (CRC/C/15/Add. 185 of 13 June 2002), provisions that parents could reasonably and moderately correct their children, and including that parental authority must always be

exercised for the benefit of children, according to their personality “and with respect for their physical and psychological integrity.” It further welcomes the efforts made through sensitization campaigns such as “Corregir no es Pegar” to promote positive non-violent forms of discipline. It reiterates its concern that corporal punishment, in particular in the home, continues to be socially accepted.

**35. The Committee recommends the State party to continue its efforts through awareness-raising campaigns and parenting education programmes to ensure that positive non-violent forms of discipline are used, in a manner consistent with the child’s human dignity and in conformity with the Convention, especially article 28, paragraph 2, while taking due account of general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel and degrading forms of punishment.**

#### **Follow-up to the UN Study on Violence against Children**

36. The Committee notes with appreciation the measures taken by the State party to follow up on the recommendations of the UN Study on Violence against Children. The Committee welcomes the first National Strategic Plan for Children and Adolescents 2006-2009, which refers to objectives and measures to fight violence against children.

**37. The Committee recommends that the State party take all necessary measures to implement recommendations of the United Nations Study on violence against children (A/61/299). In particular, the Committee recommends that the State party pay particular attention to the following recommendations: prioritize prevention; promote non-violent values and awareness-raising; provide recovery and social integration services and ensure participation of children**

38. The Committee further recommends the approval of an integral law on violence against children, similar to the one on gender and domestic violence, which guarantees the reparation of their rights and minimum attention standards in the different Autonomous Communities.

## **5. Family environment and alternative care (arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)**

### **Family environment**

39. While welcoming the wide range of social services for families, the Committee is concerned that many families still lack appropriate assistance in the performance of their child-rearing responsibilities, and notably those families in crisis situations due to poverty, absence of adequate housing or separation. The Committee is particularly concerned at the situation of children in families affected by the current economic crisis, who are in need of affirmative social measures, in particular families of foreign origin and those within single parent families.

**40. The Committee recommends that the State party intensify its efforts to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities, in particular for families in crisis situations due to poverty, absence of adequate housing or separation. It further recommends to the State party to ensure that needs of all children are met and take all necessary measures to ensure that no group of children lives below the poverty line. The Committee further recommends that the State party strengthen the system of family benefits and child allowances supporting parents and children in general and**

**providing extra support for families such as single-parent families, and families with many children and/or with unemployed parents.**

#### **Children deprived of a family environment**

41. The Committee welcomes that the National Strategic Plan for Children and Adolescents prioritizes family care over institutional care. The Committee expresses concern at the situation of children with conduct disorders who are being placed in special centers financed by public administrations and privately managed, which have a huge variety of intervention programmes applied to children, ranging from highly restrictive to more open, socializing initiatives. The Committee is also concerned at the insufficient criteria and procedures for referring children to these centers. The Committee is further concerned that these special centers may constitute a form of deprivation of liberty.

**42. The Committee recommends the State Party to develop norms and protocols to define the scope and standards of the care given to children with conduct disorders and at social risk and criteria for referral to these private centers. It urges the State party to ensure that the rights of the child are fully guaranteed. In particular it recommends that :**

(a) Children should exceptionally be referred to these centers as a measure of last resort;

(b) Placement of children in these centers can only be authorized by courts, after having respected the right of children to be heard;

(d) An independent body for the monitoring of placement conditions and receiving and processing complaints by children in these privately run centers should be established;

(e) Periodic evaluations must be conducted and the length of stay must be strictly limited to the shortest period of time possible;

(f) Psychosocial support programs (including afterschool-recreation programs, volunteer activities programs, mentoring programs, parent-teacher training and improving communication), as well as family and community conferencing and cognitive-behavioural therapy treatment, be applied instead of referring children with conduct disorders to these centers. Support and respite care should be provided to parents to be able to cope with the difficulties and take care of the children in their own homes.

**43. The Committee recommends that the State party strengthen efforts to improve quality of care available taking account of the United Nations Guidelines for the Alternative Care of Children adopted by the General Assembly in November 2009. The Committee further recommends that placements in institutions are periodically reviewed, as required under article 25 of the Convention.**

#### **Adoption**

44. The Committee welcomes Law 54/2007 of 28 December on Inter-country Adoption which strengthened adequate guarantees for inter-country adoption processes by providing clear regulatory instruments to ensure that the rights and interests of the child are observed. The Committee is concerned however that the existence of 23 Central authorities for the purposes of the Hague Adoption Convention and the existence of numerous officially authorized private adoption agencies and “*Entidades Colaboradoras de Adopción Internacional (ECAIS)*” complicates control, evaluation and follow up and that their effectiveness depends on State support, training, supervision and control.

45. The Committee recommends the State party to continue its efforts to guarantee the respect of the rights of the child in the different phases of the inter-country adoption process, including in the country of origin of the child. With that aim, a first step is to ensure that inter-country adoptions only take place with those countries which have ratified the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Inter-country Adoption. The Committee also recommends that social programs such as *“Programas de acogida temporal a menores extranjeros”* and programs of international cooperation aimed at providing support to homes, families and communities in countries of origin of inter-country adoptions be clearly differentiated from inter-country adoption processes. While noting that the law in the State party penalizes illegal adoptions, the Committee recommends that offenses described in art. 3 of the Optional Protocol on sale of children, child prostitution and child pornography be fully covered under Spanish criminal law.

## 6. Basic health and healthcare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) of the Convention)

### Children with disabilities

46. The Committee expresses appreciation at the measures adopted by the State Party in favor of persons with disabilities, namely the First National Accessibility Plan 2004-2012, and welcomes Organic Law N° 51/2003 of 2 December on equal opportunities, non discrimination and universal accessibility for people with disabilities, as well as Law 39/2006 of 14 December on fostering personal autonomy and on the care of dependent persons. It notes with appreciation that one of the objectives of the National Strategic Plan for Children and Adolescents is promoting attention to children with disabilities. The Committee notes the paucity of information on the level of violence experienced by children with disabilities.

47. **The Committee encourages the State party to continue and strengthen its efforts in the promotion and protection of the rights of children with disabilities and in doing so it recommends that studies on violence against children with disabilities be undertaken. The State party should take into account the Committee’s General Comment N. 9 (2006) on the right of children with disabilities.**

### Health and Health Services

48. The Committee welcomes the measures taken by the State party to ensure and guarantee children’s health. It expresses appreciation at the establishment of the medical specialty of child and adolescent psychiatry. The Committee is concerned however, that the problems of high prevalence of emotional and psychosocial disorders have not been adequately addressed. The Committee also expresses concern at information that indicates an increase, within a short period of time, of the prescription to children diagnosed with ADHD of psycho stimulants.

49. **The Committee recommends the State party to develop a national child mental health policy, which should include promotion of positive mental health and emotional well-being, prevention of common mental health problems in schools, primary health care treatment and development of specialized teams of child mental health professionals serving children in need in outpatient and inpatient services. The Committee further encourages research in the field of child psychiatry with special focus on social determinants of mental health and mental disorders. The Committee recommends that the State party carefully examines the phenomena of over-prescription of medication to children and take initiatives to provide children**

**diagnosed with ADHD and other behavioral disorders as well as their parents and teachers, with access to a wide range of psychological and educational measures and treatment.**

#### **Adolescent health**

50. The Committee is concerned about substance use among adolescents, as well as the increase in obesity in children and adolescents in the State party.

**51. The Committee recommends that the State party continue and strengthen efforts to combat substance abuse among adolescents and manage obesity among children and pay close attention to child and adolescent health taking into account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of CRC. The Committee recommends that the State party take all necessary measures to prevent substance abuse.**

#### **Standard of living**

52. The Committee notes efforts made to address the issue of child poverty through the National Strategic Plan for Children and Adolescents and the several Action Plans for Social Inclusion in Spain 2006-2008 and 2008-2011. The Committee is concerned however that nearly one out of 4 children is living in a household with income below the poverty risk threshold and at the limited emphasis placed on child poverty and the limited coordination of policies and strategies to combat child poverty in different environments, thus putting the full development of children at risk.

**53. The Committee recommends the design of public policies aimed particularly at addressing the problem of child poverty. A National Plan to combat child poverty which establishes a coherent framework identifying priority actions against the exclusion of children, with specific and measurable objectives, clear indicators, deadlines and sufficient economic and financial support should be created. This plan must be capable of effectively coordinating actions at the national, regional and local levels, actions in different areas (particularly economy, healthcare, housing, social policy and education) that are particularly responsible for children, and must include the necessary participation of girls and boys.**

## **6. Education, leisure and cultural activities (arts, 28, 29 and 31 of the Convention)**

#### **Education, including vocational training and guidance**

54. The Committee welcomes the adoption of Law 2/2006 of 3 May on Education, which includes human rights content in primary and secondary education curricula in the subject of "Education for citizenship". It further notes with appreciation the information provided by the State party according to which during the school year 2010-2011 the educational system will reach the highest ever rate of enrollment. It welcomes as well the increase in the number of teachers and the development of reinforcement, guidance and support plans to improve educational levels, particularly of students who are at an educational disadvantage and foreign pupils. The Committee shares, however, the concern of the State party at the rate of premature school drop out which continues to be very high. The Committee is also concerned at the low participation of children and adolescents in schools, which is still under-developed and is limited to School Councils starting in secondary education.

**55. The Committee recommends that the State party to:**

(a) **Strengthen its efforts to reduce the rate of premature school drop out and take necessary measures to ensure that children complete their schooling, taking concrete action to address the reasons behind non-completion of schooling;**

(b) Expand vocational education and training for children who have left school without certificates, enabling them to acquire competencies and skills in order to enhance their work opportunities;

(c) Ensure the right of all children to a truly inclusive education which ensures the full enjoyment to children from all disadvantaged, marginalized and school-distant groups;

(d) Ensure the right of children to participate in school environment starting with primary education.

56. The Committee welcomes the efforts to combat violence in schools, including through the Action Plan for the Promotion and Improvement of School Coexistence and the Master Plan for Coexistence and Improvement of School Safety, and encourages the State party to continue its efforts to combat bullying in schools and invite children to participate in efforts to reduce and eliminate these harmful behaviors.

## **8. Special measures of protection (arts. 22, 30, 32-36, 37 (b)-(d), and 38-40 of the Convention)**

### **Asylum seeking /refugee children and unaccompanied foreign children**

57. The Committee welcomes the adoption in October 2009 of a new Asylum law (Ley 12/2009 reguladora del derecho de Asilo y de la Protección subsidiaria), which refers to the special circumstances of unaccompanied children in need of international protection and the need to assure them a differentiated treatment. It notes, however, that the new legislation foresees the right to request and enjoy international protection only to non-EU nationals and stateless children, thereby excluding EU citizens from the right to seek asylum.

**58. The Committee recommends the State party to widen the personal scope of the new Asylum law, in line with international standards, in order to ensure that adequate protection is afforded to all children, irrespective of their nationality.**

59. The Committee notes the measures taken by the State party, including creation of a registry of unaccompanied children in the Dirección General de la Policía (*Real Decreto (RD) 2393/2004, de 30 de diciembre*), as well as the protocol developed by the Observatory for Children concerning unaccompanied children. While noting that the repatriations of unaccompanied children have decreased in the last years, the Committee continues to be concerned about reports of:

(a) Different methods used for determining the age of unaccompanied children which may vary from region to region, not necessarily taking into account issues such as nutritional customs which may influence the physical and psychological evolution of the child;

(b) Ill-treatment of unaccompanied children by the police during forced or involuntary repatriations to the country of origin, where in some cases they are deported without the necessary guarantees (no access to a lawyer, no interpretation services, and not considering the best interests of the child, and without observance of the right of the child to be heard);

(c) Unaccompanied children (particularly Moroccan) being handed to border authorities and not to the social services of the country of origin, noting they may be

victims of abuse and detention by security forces and border authorities of the country of origin;

(d) Failure of authorities to provide unaccompanied children with the temporary legal residency status to which they are entitled under law because of the delays of the Department of Social Welfare in applying for it; and

(e) Substandard accommodation conditions and neglect in emergency centers in the Canary Islands, particularly in La Esperanza, on Tenerife Island and in Spanish enclaves, particularly Ceuta.

**60. The Committee recommends the State party to:**

(a) **Take all necessary measures to prevent irregular procedures in the expulsion of unaccompanied children;**

(b) **Establish child friendly reception centers for children with effective mechanisms to receive and address complaints from children in care and investigate in an effective way reported cases of ill-treatment of children;**

(c) **Coordinate with Governments of countries of origin, especially Morocco to ensure that when children are repatriated they are returned to family members willing to care for them or to an appropriate social service agency;**

(d) **Develop a uniformed protocol for age determination methods and ensure that age determination procedures are conducted in a scientific, safe, child and gender-sensitive and fair manner, avoiding any risk of violation of the physical integrity of the child;**

(e) **Guarantee that following the identification as an unaccompanied child, an analysis of his/her individual circumstances is done bearing in mind the best interest of the child and the right of the child to be heard;**

(f) **Provide unaccompanied children with information about their rights under Spanish and international law, including the right to apply for asylum;**

(g) **Ensure an adequate territorial coordination between central administration, regional and local as well as with security forces;**

(h) **Address the situation of the quality of conditions of emergency centers in the Canary islands and in the Spanish enclaves;**

(i) **Provide training on asylum matters and on the specific needs of children for personnel dealing with unaccompanied children, including on the situation of unaccompanied and separated children to asylum officials, border police and civil servants who might be the first persons in contact with children in need of protection. Training should also include issues concerning human trafficking, and treatment of traumatized children; and**

(j) **Take into account the Committee's General Comment no. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin.**

**Sexual exploitation and abuse**

61. The Committee welcomes the efforts made by the State party to combat commercial sexual exploitation and abuse. In particular it welcomes the Second National Action Plan against Commercial Sexual Exploitation of Children and Adolescents (2006-2009). It further welcomes the launch of the Register on Precautionary Measures, Rogatory Proceedings and Non-binding rulings, which supports the activities of judicial bodies and

facilitates contacts between Spain's registration system and in the European Union. It is concerned, however, at the information provided by the State party concerning the increase in the number of victims of sexual exploitation and abuse, some of which is linked to the rapid growth of internet use. It also notes with concern, the challenge in coordinating data on sexual abuse due to the lack of a centralized registration system for cases of child sexual abuse and exploitation.

62. **The Committee recommends the State party to:**

(a) **Intensify its efforts to collect data on the extent of sexual exploitation and abuse of children as well as undertake in-depth studies on child sexual exploitation in accordance with the National Action Plans, as essential tools to prepare adequate responses to and to combat these phenomena;**

(b) **Establish a centralized registration system for cases of child sexual abuse and exploitation;**

(c) **Continue to implement appropriate policies and programmes for prevention, recovery and social reintegration of child victims, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996, 2001 and 2008 World Congresses against Sexual Exploitation of Children held at Stockholm, Yokohama and Rio de Janeiro respectively, as well as the outcome of other international conferences on this issue;**

(d) **Avoid re-victimization of the child during the judicial proceeding, guaranteeing the adequate protection of victims and their families during proceedings, and seeking not to aggravate the traumatic experience.**

#### **Administration of Juvenile Justice**

63. The Committee welcomes the increase in human and financial resources allocated to the juvenile justice system, including an increase in the number of children courts. It also notes with appreciation the efforts made by the State party to train professionals working with the juvenile justice system on children issues. However the Committee is concerned that legislative developments have led to tougher penalties for children having committed serious criminal offences.

64. **The Committee recommends the State party, when reviewing its legislation, to minimize harsh sentences for children, even in the event of having committed serious criminal offences. The Committee recommends the State party to ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). In particular, the Committee urges the State party to, while taking into account the Committee's general comment No. 10 on the administration of juvenile justice (CRC/C/GC/10, 2007):**

(a) **Strengthen preventive measures, such as supporting the role of families and communities in order to help eliminate the social conditions leading children to enter in contact with the criminal justice system and take all possible measures to avoid stigmatisation;**

(b) **Ensure that the deprivation of liberty of juvenile offenders is used only as a measure of last resort and encourage the use of alternative measures to deprivation of liberty, such as mediation, probation, counselling and community services and strengthen the role of families and communities in this regard;**

(c) Guarantee that deprivation of liberty ends up with an individualized proposal for follow up of and reintegration of the child, in close coordination with social and educational services.

(d) Improve training programmes on relevant international standards for all professionals working with the criminal justice system.

(e) Increase specialized interventions on issues of juvenile offenders that have committed sexual aggressions.

## **9. Ratification of international human rights treaties**

65. The Committee recommends that the State party ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

## **10. Follow-up and dissemination**

### **Follow-up**

66. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, *inter alia*, by transmitting them to the Head of State, the Supreme Court, Parliament, relevant ministries and local authorities for appropriate consideration and further action.

### **Dissemination**

67. The Committee further recommends that the second periodic report and written replies submitted by the State party and the related recommendations (concluding observations) it adopted be made widely available in the languages of the country, including (but not exclusively) through the Internet to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Convention, its implementation and monitoring.

## **11. Next report**

68. The Committee invites the State party to submit its next combined fifth and sixth periodic report by 1 October 2015. The Committee draws attention to its Harmonized Treaty Specific Reporting Guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2) and reminds the State party that future reports should be in compliance with the guidelines and not exceed 60 pages. The Committee urges the State party to submit their report in accordance with the reporting guidelines. Should a report exceeding the page limitations be submitted, the State party will be asked to review and eventually resubmit their report in accordance with the above mentioned guidelines. The Committee reminds the State party that if it is not in a position to review and resubmit the report, then translation of the report for purposes of examination of the treaty body cannot be guaranteed.

69. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the Common Core Document in the Harmonized Guidelines on Reporting, approved by the 5th Inter-Committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3). The treaty-specific report and the common core document together constitute the harmonized reporting obligation under the Convention on the Rights of the Child.

